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1 SENATE RULES COMMITTEE

2 STATE OF CALIFORNIA

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6 HEARING

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10 STATE CAPITOL

11 ROOM 113

12 SACRAMENTO, CALIFORNIA

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16 WEDNESDAY, MAY 19, 1999

17 9:32 A.M.

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25 Reported by:

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27 Evelyn J. Mizak  
28 Shorthand Reporter





APPEARANCESMEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR JOHN LEWIS, Vice Chair

SENATOR JOE BACA

SENATOR TERESA HUGHES

SENATOR WILLIAM KNIGHT

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

WADE TEASDALE, Consultant to SENATOR LEWIS

FELICE TANENBAUM, Consultant to SENATOR HUGHES

ANDY PUGNO, Consultant to SENATOR KNIGHT

MANNY HERNANDEZ, Consultant to SENATOR BACA

ALSO PRESENT

KATHLEEN M. HAMILTON, Director  
Department of Consumer Affairs

SENATOR PATRICK JOHNSTON

CARL BRAKENSIEK  
California Association of Licensed Repossessors

BILL CAMP  
California Labor Federation, AFL-CIO

DONNE BROWNSEY  
California Nurses Association

GARY COOPER  
Hearing Health Care Providers of California



1 HOWARD OWENS  
2 Consumer Federation of California

3 WILLIAM POWERS  
4 Congress of California

5 KRISTY WIESE  
6 Planned Parenthood Affiliates of California

7 LAURA STRAND  
8 Consumer Federation of California

9 ROSEMARY SHAHAN  
10 Consumers for Auto Reliability and Safety  
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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: The first order of business will be the confirmation of Kathleen Hamilton, Director, Department of Consumer Affairs.

Senator Johnston.

SENATOR JOHNSTON: Thank you, Mr. Chairman and Members.

Kathleen Hamilton is on the job as the Director of Consumer Affairs. She comes with experience both in the legislative branch of government, where she's worked as a senior staff person, and also in the State Treasurer's Office, and has been in private business. Her skills and experience are known to you by looking at the material.

I want to say on a personal level that I've known Kathy for two decades now, and she is tirelessly effective in pursuing public policy goals. And beyond that, she got me elected in 1980, when I won by 25 votes.

[Laughter.]

SENATOR JOHNSTON: I'm very grateful to Kathleen Hamilton.

MS. HAMILTON: Good morning, Mr. Chairman and Members. I'm Kathleen Hamilton.

I'd like to begin what I promise will be very, very brief remarks by thanking Senator Johnston for his kind and revealing introduction. I try to keep my age a secret, but you seem to have revealed it.

Mostly I want to thank the Senator for his



1 friendship and wise counsel over the years. One of the reasons  
2 I'm not at all ashamed to be a career bureaucrat is because of  
3 the wonderful career that I've been fortunate to enjoy. It's  
4 afforded me enduring friendships and valuable mentors, and  
5 Senator Johnston is certainly one of the individuals I'm really  
6 pleased to call a friend and a tutor. So, thank you.

7 I'm also honored to have been asked by Governor  
8 Davis to serve as his Director of the Department of Consumer  
9 Affairs. The job is an enormous challenge, but I'm fortunate to  
10 have had the opportunity to work in this area for many, many  
11 years and feel confident my experience and skills will serve the  
12 people of California well.

13 Perhaps more importantly, however, this is an  
14 area of public policy that I care deeply about, and so I'm  
15 prepared and looking forward to the hard work that lies ahead.

16 The Department has been described by one of my  
17 predecessors as Balkan-like. I've come to think of it with  
18 affection and an occasional shoulder shrug as the Winchester  
19 House of government. It's a complex conglomerate of only  
20 loosely connected authorities as diverse as registered  
21 geologists, guide dogs, boxers -- the people, not the dogs --  
22 barbers, trade schools, and doctors and nurses.

23 So, in these first few weeks, the logical  
24 question for me has been, what's the common thread; what is it  
25 we really do here? And it occurs to me the answer might be  
26 simple. Our job at the Department of Consumer Affairs is to  
27 ensure a level of professionalism and trust in the marketplace  
28 that protects and assures both business and consumers. And we





1 have a duty to carry that out with common sense and fairness in  
2 a timely and responsive way.

3 But we're not just bureaucrats. If the  
4 Department's essential circulatory system is its regulatory  
5 rubric, I think its true heart beat is in its broader mandate.  
6 And it is there we have the opportunity to make a difference.  
7 It's there where vision may matter more than vigilance, for  
8 clearly, part of our mission is to look ahead: What are  
9 tomorrow's marketplace challenges, and how do we prepare  
10 commerce and consumers for those challenge?

11 Our job is to anticipate, and educate, and to  
12 shape the framework of the marketplace. And that is best done  
13 in an environment where all stakeholders know they have a place  
14 at the table.

15 I look forward to re-engaging with California's  
16 consumer organizations, and to working with my colleagues in the  
17 other state and federal agencies that affect consumer  
18 transactions. Working together, I'm confident we can shape a  
19 Department that is vital, and responsive, and relevant.

20 As I indicated in the statement I earlier  
21 submitted to the Committee, I've come to value collaboration,  
22 creativity, and common sense. As the oldest of eleven children  
23 growing up, and a single parent of my college student daughter,  
24 Megan, I have surely learned the inevitability of occasional  
25 compromise and the value of team work.

26 Mr. Chairman and Members, I appreciate this  
27 opportunity to meet with you this morning, and look forward to  
28 working with you in the months and years ahead.



1 Thank you.

2 CHAIRMAN BURTON: Senator Lewis.

3 SENATOR LEWIS: Good morning.

4 MS. HAMILTON: Good morning.

5 SENATOR LEWIS: Apparently the LAO has  
6 recommended that licensure fees that are collected be rolled  
7 into one large fund.

8 What do you think of that proposal?

9 MS. HAMILTON: I think that the industries that  
10 are licensed in the Department of Consumer Affairs are entitled  
11 to have their revenues accounted for and directed in a focused  
12 way and very specifically to the programs that serve their  
13 profession.

14 The Department does utilize consolidation and  
15 centralization of certain services that provide assistance to  
16 all the licensing programs when it's cost effective.

17 SENATOR LEWIS: Along that line, do you think  
18 that the license fees should be directly tied to the cost of  
19 regulating that particular service?

20 MS. HAMILTON: I think that what the professions  
21 are assessed in the way of license fees ought to reflect what  
22 the cost of regulating their professions and running the program  
23 that they expect the Department to run --

24 SENATOR LEWIS: You don't want the state to turn  
25 a profit on it; do you?

26 MS. HAMILTON: Oh, no. I think we ought to be a  
27 bargain.

28 SENATOR LEWIS: Are there any other professions



1 that we currently license out of the 200 or so that you think  
2 might be ripe now for abolition of licensure.

3 MS. HAMILTON: I'm sorry, for --

4 SENATOR LEWIS: Doing away with licensure?

5 MS. HAMILTON: No. We're looking at all of them.  
6 As you know, there's a proscribed schedule for sunset review,  
7 and the Department's actively engaged in that on an ongoing  
8 basis, and we're constantly reviewing those programs. Nothing  
9 jumps out ahead at the moment.

10 SENATOR LEWIS: I wanted to ask you just a quick  
11 question about Smog Check II.

12 Is it true that more cars are failing in the  
13 basic areas as opposed to the enhanced areas as of this moment?

14 MS. HAMILTON: I don't have that information.  
15 I'd be happy to get the specific data for you, Senator Lewis.

16 As you may know, the Department, and BAR, and  
17 the ARB has recently initiated an agency-wide task force that's  
18 currently looking at a wide range of data, including those kinds  
19 of questions, to assess where the program's successful, where it  
20 may need some improvements, and what kinds of tinkering we may  
21 need to do with the program in the months ahead.

22 SENATOR LEWIS: I'd be interested if you could  
23 get back to the Committee on that.

24 The other question I have is just that staff  
25 informs me that in order to meet the federal requirement of  
26 removing 112 tons of pollutants a day from mobile sources, that  
27 works out that you'd have to fail 30 percent of California cars  
28 during tests. Is that right?





1 MS. HAMILTON: There are varying projections of  
2 that. I've heard as high as 36, and we've heard as low as 18  
3 percent. The truth probably lies somewhere in the middle.

4 SENATOR LEWIS: Thank you.

5 CHAIRMAN BURTON: Senator Hughes.

6 SENATOR HUGHES: Good morning.

7 MS. HAMILTON: Good morning.

8 SENATOR HUGHES: Half of the complaints that I  
9 get from consumers and constituents in my district is because  
10 they don't know where to go, so they come to the Senator because  
11 it sounds like, with the title, I ought to be able to clear it  
12 all up.

13 The problem is because the local agencies are not  
14 taking care of the problem, and the state agency is more  
15 elitist, and they don't go to the state.

16 Have you thought about or do you plan on having  
17 some coordination between the state and the local consumer  
18 affairs departments?

19 MS. HAMILTON: I really appreciate your question,  
20 Senator Hughes.

21 Secretary Adams and I recently held a meeting  
22 with a wide range of consumer organizations, including a handful  
23 of local agencies that serve California's consumers.

24 One of the outcomes of that meeting was to talk  
25 about ways to enhance our ability to share information and to  
26 work more closely with those organizations, including  
27 participating in each other's conferences, but also looking at  
28 our Web sites and Internet capabilities for ensuring that we're





1 not duplicating efforts, and that consumers have every  
2 opportunity to get help when they need it.

3 SENATOR HUGHES: What I do in my office, and I  
4 don't know how many other Legislators do that, when they call  
5 with complaints, and my staff knows that it's a local agency  
6 thing, we don't tell them to go to the local agency. My staff  
7 contacts the local agency and tries to be the bridge that goes  
8 between the consumer and the agency involved.

9 The other thing that I was concerned about, the  
10 number of immigrants that we have coming to our state who are  
11 ill-informed and are victims of local medical clinics that may  
12 be unlicensed and won't give good care. And the fact that back  
13 in February, there was an 18-month-old child that died because  
14 of treatment by an illegal unlicensed medical clinic in Southern  
15 California.

16 What can the Department do to ensure that these  
17 kinds of things don't continue to happen?

18 MS. HAMILTON: There's a couple of things, I  
19 think, the Department can do, and I'm pleased to tell you that  
20 we've already begun doing both of them.

21 In the general area of education, the Department  
22 has a language link library where a wide range of consumer  
23 education materials are available in multiple languages, and  
24 we'll continue to expand that resource in the Department.

25 In the particular situation that you mentioned,  
26 the Medical Board, which is one of the boards within the  
27 Department of Consumer Affairs, has created a local, state and  
28 federal task force involving several law enforcement offices and



1 U.S. Customs, to try to get at the heart of the problem that  
2 seems to be occurring in some of our immigrant communities in  
3 California with unlicensed medical care.

4 I'm told that the practitioner you described has  
5 not been identified and hasn't been located, but there's a very  
6 energetic law enforcement effort underway to try to stop that  
7 practice.

8 SENATOR HUGHES: Thank you very much.

9 CHAIRMAN BURTON: Senator Knight.

10 SENATOR KNIGHT: Thank you, Mr. Chairman.

11 Ms. Hamilton, Smog Check II is probably one of,  
12 as far as constituents are concerned, one of the biggest  
13 problems we have. I think it's because of the area. We've been  
14 designated an enhanced area, but not in City of Palmdale or  
15 Lancaster, which are both over 120,000, but the whole high  
16 desert. That's one of the few areas that is designated that way  
17 Fresno is just Fresno, Bakersfield is just Bakersfield not the  
18 whole county.

19 Is there any possibility that we can change  
20 that?

21 MS. HAMILTON: Well, as you probably know, the  
22 Smog Check program is enormously complex, and it actually is  
23 constituted by an agreement involving several state agencies as  
24 well as Federal EPA. So, changes to the state's implementation  
25 plan, which is what I believe would have to occur to re-evaluate  
26 the areas, would be part of a complex process of bringing that  
27 issue up with the feds and with our sister state agencies, who  
28 all have respective roles.



1           One of the things that we will be doing, as you  
2 know, is evaluating in February, 2000, how successfully we've  
3 been able to meet the clean air goals that we established when  
4 we first entered into the state's implementation plan. I think  
5 our hope is that in February of 2000, we'll have sufficient data  
6 to begin to re-evaluate both the way we categorize potentially  
7 areas of the state, as well as the way we administer the  
8 program.

9           So, if I have any information that I stumble on  
10 sooner than in February, 2000, I'll be happy to talk to you  
11 further about it, but I think that's probably the plan that will  
12 be followed.

13           CHAIRMAN BURTON: I think it's Senator Alpert  
14 has some legislation involving licensure of dance studios. And  
15 I guess there's a concern in your office as to whether or not  
16 you have to recuse yourself and turn it over to somebody else.

17                           [Laughter.]

18           MS. HAMILTON: Senator Burton's revealed another  
19 secret of my past, which is that I was a theater arts major.

20           Senator, anyone that ever worked with me in a  
21 theatrical production will tell you they carried me all the way  
22 across the stage. I can't dance to save my life.

23                           [Laughter.]

24           CHAIRMAN BURTON: That's a maybe.

25           Senator Baca.

26           SENATOR BACA: Kathy, my question's a simple one.  
27 What will the relationship be between the Department of Consumer  
28 Affairs and the Consumer Law Section in the State Department of





1 Justice?

2 MS. HAMILTON: I hope a really good, cooperative,  
3 collaborative relationship. In fact, we've begun some of that,  
4 working very closely with the Department of Justice to try to  
5 resolve some outstanding Medical Board issues in terms of  
6 practice, and licensure, and fees, and those kinds of things.

7 One of my early jobs in the area of consumer  
8 affairs was, I was a consumer fraud investigator in the  
9 Department of Justice, working for Herschel Elkins, who still  
10 heads up the Consumer Fraud Section. And one of the happy  
11 discoveries as I've taken on this job is to realize how many  
12 individuals are still working at all of these important  
13 locations, and how devoted they are to addressing the concerns  
14 that we all care about so much.

15 So, I look forward to a close working  
16 relationship in a way that also enables us to really maximize  
17 the utilization of our resources. We're all aware that we don't  
18 have enough to do everything we want, and my hope is that if we  
19 make some of the these decisions and choices together, we'll be  
20 particularly successful.

21 SENATOR BACA: Thank you.

22 CHAIRMAN BURTON: Do you have anybody you want  
23 to introduce?

24 MS. HAMILTON: I don't.

25 SENATOR HUGHES: I'd like to move it then.

26 CHAIRMAN BURTON: Witnesses in support briefly.  
27 Name and organization.

28 MR. BRAKENSIEK: Carl Brakensiek, on behalf of





1 the California Association of Licensed Repossessors.

2 We're in strong support of her nomination. We've  
3 had a very good meeting with her. She's very understanding. She  
4 has a very good consumer protection background and is also  
5 understanding of the needs of industry. So, we think she will  
6 be a very fair regulator.

7 Thank you.

8 MR. CAMP: Mr. Chairman, Bill Camp, with the  
9 California Labor Federation, AFL-CIO.

10 We support this nominee 100 percent and ask for  
11 your aye vote.

12 MS. BROWNSEY: Donne Brownsey with the California  
13 Nurses Association.

14 It's wonderful to stand here to honor a dear  
15 friend. And Kathy has been a patient advocate for many, many  
16 years. We're very pleased to support her confirmation today.

17 MR. COOPER: Gary Cooper, representing Hearing  
18 Health Care Providers of California.

19 We're very strongly supporting Ms. Hamilton's  
20 nomination.

21 Thank you.

22 MR. OWENS: I'm Howard Owens with the Consumer  
23 Federation of California.

24 We've already seen the way that Ms. Hamilton's  
25 hit the ground running and an outreach to consumers that hasn't  
26 been around for quite a while, and we support and ask for an aye  
27 vote.

28 MR. POWERS: Bill Powers, Congress of California,



1 also strongly in support of this nomination.

2 MS. WIESE: Good<sup>^</sup> Kristy Wiese of Planned  
3 Parenthood Affiliates of California.

4 On behalf of the over 100 Planned Parenthood  
5 Clinics throughout California, we are thrilled to have the  
6 opportunity to enthusiastically support Ms. Hamilton's  
7 confirmation.

8 MS. STRAND: Laura Strand with the Consumer  
9 Federation of California.

10 We're in strong support of her nomination, and we  
11 look forward to a very long, a close relationship with  
12 Ms. Hamilton.

13 Thank you.

14 MS. SHAHAN: Mr. Chairman and Members, I'm  
15 Rosemary Shahan from Consumers for Auto Reliability and Safety.  
16 We work on the state and federal levels on auto issues on behalf  
17 of moderate and low income consumers. And we think the Governor  
18 couldn't have made a better choice, and we urge your aye vote.

19 Thank you.

20 CHAIRMAN BURTON: Any witnesses in opposition?

21 Moved by Senator Hughes, call the roll.

22 SECRETARY WEBB: Senator Baca.

23 SENATOR BACA: Aye.

24 SECRETARY WEBB: Baca Aye. Senator Hughes.

25 SENATOR HUGHES: Aye.

26 SECRETARY WEBB: Hughes Aye. Senator Knight.

27 SENATOR KNIGHT: Aye.

28 SECRETARY WEBB: Knight Aye. Senator Lewis.



1 SENATOR LEWIS: Aye.  
2 SECRETARY WEBB: Lewis Aye. Senator Burton.  
3 CHAIRMAN BURTON: Aye.  
4 SECRETARY WEBB: Burton Aye. Five to zero.  
5 CHAIRMAN BURTON: Congratulations.  
6 MS. HAMILTON: Thank you.  
7 [Thereupon this portion of the  
8 Senate Rules Committee hearing was  
9 terminated at approximately 9:52 A.M.]

10 --ooOoo--  
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CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 19<sup>th</sup> day of May, 1999.

  
EVELYN J. MIZAK  
Shorthand Reporter







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DAVID OROSCO, Consultant to SENATOR KNIGHT

MANNY HERNANDEZ, Consultant to SENATOR BACA

ALSO PRESENT

ROY A CASTRO, Warden  
High Desert State Prison, Susanville

FRANK R. SEARCY

RICHARD E. EARLY, Warden  
North Kern State Prison at Delano

SUZANNA AGUILERA-MARRERO, President  
Chicano Correctional Workers Association

CHERYL K. PLILER, Warden  
California State Prison, Sacramento



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## P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: The first person, Governor's appointee for today, is Roy A. Castro, Warden of High Desert State Prison at Susanville.

MR. CASTRO: Good morning, Senators. My name is Roy Castro. I was appointed as Warden of High Desert State Prison in July of 1998.

I began my career in 1971 as a correctional officer at Deuel Vocational Institution at Tracy. I transferred eight times while promoting through the custody ranks and accepting more difficult assignments.

My experience includes the activation of two new prisons, assisting in the development of the Special Emergency Response Teams at Deuel Vocational Institution and Sierra Conservation Center, and the activation of a new 1,000-bed Level III facility at Sierra Conservation Center.

These assignments allowed me to demonstrate my strong leadership abilities. I've also attended a number of Departmentally-approved management training courses which has honed my management skills and developed good communication and organizational abilities.

Throughout my career, I have maintained outstanding working relationships with all divisions within the Department, the public, and outside agencies.

I bring to my present assignment a strong commitment for working closely with the neighboring communities and providing a safe and secure environment for staff to work

1 and inmates to serve their sentences.

2 Thank you.

3 SENATOR LEWIS: Thank you very much, Mr. Castro.

4 We'll probably open it up for questions.

5 Do you have anyone in the audience, any family  
6 members, that you've brought with you that you'd care to  
7 introduce?

8 MR. CASTRO: I have my wife of almost 25 years,  
9 Debby; my niece Michelle from Brentwood; my sister Gloria from  
10 to Stockton; and my Aunt Esther from Stockton. And I have also  
11 Savannah and Mackensey as part of my niece's family and nephews.

12 SENATOR LEWIS: Welcome to Sacramento.

13 Questions from Members of the Committee, Senator  
14 Knight.

15 SENATOR KNIGHT: Roy, CDC figures indicate that we  
16 have a 58 percent recidivism rate, and it indicates that that's  
17 probably one of the highest ones in the nation.

18 Do you have any ideas as to why we're so high?

19 MR. CASTRO: I do -- no, I don't, Senator.

20 I do know that within the prison system, we try  
21 to offer as many programs available as possible to the inmates.

22 SENATOR KNIGHT: Does that mean it's a good deal?

23 MR. CASTRO: I don't believe so. I believe when  
24 the law changed to Three Strikes, I believe the inmates that are  
25 doing longer sentences are now in prison. I think we're  
26 removing them from the streets. I think the drop in the  
27 violence on the streets is indicative of that.

28 I can't say why recidivism is so high. I do know



1 that in our Department, we're always looking for ways to improve  
2 and programs to implement in order to better prepare the inmates  
3 for release.

4 SENATOR KNIGHT: Thank you.

5 SENATOR LEWIS: Senator Baca.

6 SENATOR BACA: Roy, one of the other reasons,  
7 too, that you have people returning, would you say that that  
8 applies to probably almost every one of the prisons is that  
9 people probably feel that they can't really make it in society,  
10 and that they feel a lot more comfortable and a lot better in  
11 the prisons, and that's another reason why some of them even  
12 return?

13 MR. CASTRO: The sad thing for right now is that  
14 in talking with the inmates out there, and some of the feedback  
15 I get, is that the situations on the streets for inmates that we  
16 do release are worse than their situation in prison. At least  
17 in prison, they know what to expect from us. On the streets,  
18 they don't know what to expect. And sometimes, the conditions  
19 are quite a bit better than what they are involved in on the  
20 streets.

21 SENATOR BACA: What are you doing to reduce drug  
22 use in prison? Has drug use increased or decreased in your  
23 experience or to your knowledge?

24 MR. CASTRO: In my experience, I don't believe  
25 the drug use has increased. I have done -- at High Desert, I  
26 have done everything I can to reduce drugs within the prison.

27 We do have a Scantron 1000, and visitors are --  
28 need to pass through in order to go inside the prison. This is

1 a very good tool to identify contraband coming inside the  
2 prison.

3 We also monitor telephone conversations, which  
4 has been extremely effective at High Desert. We have made a  
5 number of arrests on visitors coming in to bring drugs.

6 We also x-ray packages and mail that comes inside  
7 the prison.

8 A lot of our violence is as a result of drug  
9 deaths within the prison, but I don't believe it has increased.  
10 I believe it's dropped since I've been at High Desert State  
11 Prison.

12 SENATOR BACA: What kind of a relationship do you  
13 have, or do you believe in an open-door policy, because some of  
14 the members, staffers or others, believe that they've got to  
15 have access. A lot of the inmates have access to a lot of guys.

16 What is your policy in reference to staffers  
17 being able to communicate if, in fact, they have a problem, or  
18 want to identify a problem, or just communicate, or upward  
19 mobility?

20 MR. CASTRO: I have -- monthly I have warden's  
21 forums that I hold with line staff. Also supervisors, I hold  
22 meetings with them separately on the forums, and managers.

23 I walk inside the prison without anyone with me.  
24 That way, I believe it makes the inmates more comfortable in  
25 talking to me when I walk through the prison. It also  
26 makes the staff more comfortable when I go to their assignments  
27 and talk to them while they're doing their jobs.

28 I do meet with all new employees when they first

1 report to High Desert. I let them know what my policies are,  
2 and one of them is an open-door policy. If they have an issue  
3 that they feel is important to them, that they need to elevate  
4 to my level, I always make the time, and tell them to make an  
5 appointment and come in and see me.

6 SENATOR BACA: One final question.

7 What is the diversity or make-up of your staff?

8 MR. CASTRO: First, I think I need to make clear  
9 that High Desert State Prison located in the northeastern  
10 portion of the state. There's not much of a minority make-up in  
11 that area on the population wise.

12 And my staff currently at High Desert is 84  
13 percent Caucasian. I have approximately 2 percent Black staff,  
14 and 9.3 percent are Hispanics.

15 SENATOR BACA: Hopefully we can work on improving  
16 those statistics or numbers. I know that it's difficult in that  
17 high desert area, but who knows. That's an area we've got to  
18 work to improve.

19 MR. CASTRO: I agree, Senator. And I just signed  
20 off on -- I just promoted two minorities and correctional  
21 lieutenants this past week. I think they will be fine people in  
22 their position.

23 SENATOR BACA: Thank you.

24 SENATOR LEWIS: Senator Hughes.

25 SENATOR HUGHES: Good morning.

26 MR. CASTRO: Good morning.

27 SENATOR HUGHES: I understand that you were at a  
28 women's prison, Central California Women's Facility, for about a



1 year as a program administrator.

2 In your experience, how effective are the women's  
3 prisons as compared to the male prisons, or did you see any  
4 difference?

5 MR. CASTRO: There's a vast difference.  
6 Actually, I was there for approximately three-and-a-half years  
7 as a correctional captain. I activated that, and then I  
8 lateralled over to program administrator.

9 The women are completely different than dealing  
10 with the men. The gangs aren't as big a problem.

11 I believe drugs are a much larger issue with  
12 females, along with medical issues.

13 SENATOR HUGHES: They are?

14 MR. CASTRO: Yes.

15 SENATOR HUGHES: Why do you think?

16 MR. CASTRO: Senator, I really can't say, but I  
17 do know that the females seem to have more medical issues than  
18 the male population. I know our costs for medical was really  
19 skyrocketing at Central California Women's Facility. I believe  
20 it's the same at all the female institutions.

21 SENATOR HUGHES: You felt that they needed more  
22 sedation, or do you feel that the drugs were just running more  
23 rampant?

24 I didn't mean to be funny. I was serious when I  
25 asked that.

26 MR. CASTRO: Not needing more sedation. I think  
27 they have more physical problems than the male inmates do.

28 SENATOR KNIGHT: It's called the weaker sex.



1           SENATOR HUGHES: You may be excused. You need no  
2 more per diem because you just blew it.

3           SENATOR LEWIS: Strike that from the record.

4           SENATOR HUGHES: Better yet, strike him. But  
5 since I'm not violent, I wouldn't even attempt to do it.

6           Do you have male correctional officers? In what  
7 proportion do you have males and females in these women's  
8 prisons?

9           MR. CASTRO: In the women's prisons?

10          SENATOR HUGHES: Yes.

11          MR. CASTRO: I believe while I was at CCWF, we  
12 were very successful in recruiting females. And I believe when  
13 I was there as a captain, we were up close to 40 percent, and  
14 our target was like 46 percent female.

15          SENATOR HUGHES: How effective are the women  
16 correctional officers in the predominantly male institutions  
17 that you've worked in?

18          MR. CASTRO: I believe the female correctional  
19 officers are every bit as effective as the male correctional  
20 officers. There is not one area of the prison that they're not  
21 allowed into or not assigned to.

22          And I believe with the training that has gone on  
23 with the Department since we first started hiring female  
24 correctional officers in 1973, I think those programs have been  
25 effective.

26          And I believe the male officers have finally --  
27 their level of confidence has grown.

28          Actually, I've seen where, in some instances,

1 where females are much more effective than males in dealing with  
2 incidents.

3 SENATOR HUGHES: How do you mean they're more  
4 effective? Are they more persuasive in getting them to be  
5 cooperative? What do you mean by more effective?

6 MR. CASTRO: I believe in some instances, it's  
7 sometimes disconcerting to an inmate to confront a female  
8 officer, where they would not hesitate to confront a male  
9 officer, because of the fact that I don't feel that they feel  
10 there's a challenge to them there. Not in a negative way, but  
11 there's not a challenge to their manhood by confronting a  
12 female.

13 SENATOR HUGHES: I think that's probably a very  
14 good observation.

15 We were talking about recidivism before. What  
16 about the educational programs and vocational programs that you  
17 have in the institutions? How effective do you think they are,  
18 and do you feel that it should make a difference in terms of the  
19 recidivism, especially those people who have shorter terms to  
20 serve?

21 MR. CASTRO: I think they're very effective. I think  
22 it gives the inmates a sense of accomplishment when they do get  
23 their GED.

24 I know the staff that work for me at High Desert  
25 State Prison in the Education Department are very excited about  
26 their jobs. They're very positive. They see results in that  
27 inmates are graduating.

28 Right now I have, I believe, it's 13 or 14

1 academic classes going, and 16 vocational programs that are on  
2 line and operating now.

3 SENATOR HUGHES: Inmates that have been through  
4 their program, have they been the ones to return more frequently  
5 to the institution, or to return less frequently, from what you  
6 can remember?

7 MR. CASTRO: From what I can see, usually the  
8 ones that complete a vocational program and have better tools to  
9 operate with when they get on the streets, there's less of  
10 recidivism among those inmates than the inmates that come in and  
11 don't want to accomplish anything and get involved with the  
12 gangs and hit the street.

13 SENATOR HUGHES: I've had a lot of meetings with  
14 your Director, Mr. Terhune. He has indicated to me that the  
15 Department has very low tolerance for retaliation against  
16 employees who complain.

17 As a warden, do you feel that the employees feel  
18 more comfortable about coming forward with complaints at your  
19 institution, or are they still sort of reluctant in a way?

20 MR. CASTRO: You know, I hope we don't have any  
21 complaints. However, when they do come forward, I think with  
22 the training that we have provided, and we do reinforce that at  
23 every level, that there is no tolerance at all for retaliation,  
24 that the staff, I feel, at least feel safer in coming forward  
25 and voicing their concerns.

26 SENATOR HUGHES: What do you do to make them feel  
27 free to come and talk to you?

28 MR. CASTRO: When an employee has an issue that



1 they want to bring forward to my level, they contact my  
2 secretary. And a whatever I have on my calendar, I clear.

3 I do make every effort to see every employee that  
4 comes to my office.

5 If they don't feel comfortable in coming to my  
6 office, I do make periodic walks through the institution. I try  
7 to touch as many areas as I can, talking to staff while they're  
8 working. I walk the yards talking to inmates.

9 The staff -- it's my feeling's that the staff  
10 feel comfortable in coming to me in either one of those. Also,  
11 I have the warden's forums where the agenda is wide open, and  
12 there's no issue that I tell them that we won't discuss at the  
13 warden's forums. Whatever they want to talk about, that's what  
14 we talk about.

15 SENATOR HUGHES: Thank you.

16 SENATOR LEWIS: Mr. Castro, how much of a problem  
17 is overcrowding at your institution, and how are those problems  
18 manifested?

19 MR. CASTRO: Right now, I believe the base  
20 occupancy rate for High Desert is at 2224 inmates. We're  
21 currently at about 4150 inmates, approximately 190 percent  
22 overcrowding.

23 Of course, the issues arise because we don't use  
24 our gymnasiums because we have now inmates in there. So, that's  
25 one area that the inmates don't get to go in and utilize fully.  
26 We do have the yards still open.

27 The yards are a little bit more crowded. It  
28 takes a little bit longer for the inmates to get through and

1 get, like, their canteens, get around to utilizing the services  
2 that we have inside.

3 At this point, there's no significant problems  
4 arising from our being at that level of population. I think  
5 we're handling it very well.

6 SENATOR LEWIS: Great.

7 You have a number of inmates that participate in  
8 work programs, and then also academic and vocational programs as  
9 well.

10 But what about the balance that don't choose to  
11 participate in anything? Have you surveyed those folks? Do you  
12 have kind of a ranking of reasons why they choose not to avail  
13 themselves of those programs?

14 MR. CASTRO: No, Senator, I don't. I do know  
15 that they are seen every 30 days in regards to their programming  
16 if they choose to not program at all. Currently, at High Desert  
17 State Prison, I have 57 inmates that are -- it's called C over C  
18 status, where they're not allowed -- they don't want to work, so  
19 they're activities are reduced in regards to the inmates that  
20 are working.

21 But as far as the issues that they have, I  
22 haven't taken a survey of that, no.

23 SENATOR LEWIS: Thank you.

24 Senator Baca.

25 SENATOR BACA: I'd like to move the nomination of  
26 Roy Castro.

27 SENATOR KNIGHT: Could I ask one question? Thank  
28 you, Mr. Chairman.

1 Roy, you indicated the prison was built for a  
2 little over 2,000 inmates. Is that one per cell, or how do you  
3 figure that?

4 MR. CASTRO: Originally, when they do the base  
5 figures, it is one inmate per cell, yes.

6 SENATOR KNIGHT: So, when you're up to 4,000,  
7 that means you have two in a cell?

8 MR. CASTRO: Yes.

9 SENATOR KNIGHT: That's where you get the 188  
10 percent capacity?

11 MR. CASTRO: Yes.

12 SENATOR KNIGHT: Thank you.

13 SENATOR LEWIS: Okay, keeping in mind that we're  
14 not aware of any opposition to Mr. Castro's appointment nor the  
15 other two wardens that are up before us today, at this point  
16 we'd like to welcome anyone who would like to give testimony in  
17 support of the nomination.

18 MR. SEARCY: Good morning, Committee Members. I  
19 am Frank R. Searcy, and I offer my support for Mr. Castro as  
20 Warden of the High Desert State Prison.

21 I've known Mr. Castro for several years. His  
22 demonstrated abilities have proven that he can administer as a  
23 warden.

24 What's also very significant, I offer, is his  
25 assignments at varying institutions, especially when it comes to  
26 the women's prison. That type of experience, and with the other  
27 institutions assignments, only enhances his administrative  
28 abilities.



1 But also very noticeable is his willingness to go  
2 out within the inmate population and speak with them, and make  
3 himself available for their questions and also for staff.

4 So again, as a friend of Mr. Castro, I offer my  
5 support.

6 Thank you.

7 SENATOR LEWIS: Thank you.

8 SENATOR KNIGHT: You don't represent anybody else  
9 other than yourself?

10 MR. SEARCY: That's right, sir.

11 SENATOR KNIGHT: Okay, thank you.

12 SENATOR LEWIS: Anyone else in the audience  
13 wishing to testify?

14 Anyone else in the audience wishing to testify in  
15 opposition to the nomination?

16 We have a motion. Secretary, please call the  
17 roll.

18 SECRETARY WEBB: Senator Baca.

19 SENATOR BACA: Aye.

20 SECRETARY WEBB: Baca Aye. Senator Hughes.

21 SENATOR HUGHES: Aye.

22 SECRETARY WEBB: Hughes Aye. Senator Knight.

23 SENATOR KNIGHT: Aye.

24 SECRETARY WEBB: Knight Aye. Senator Lewis.

25 SENATOR LEWIS: Aye.

26 SECRETARY WEBB: Lewis Aye. Senator Burton.

27 Four to zero.

28 SENATOR LEWIS: We'll place that measure on call



1 for Senator Burton.

2                   Congratulations.

3                   MR. CASTRO: Thank you.

4                   [Thereafter, CHAIRMAN BURTON  
5                   added his Aye vote, making  
6                   the final vote 5-0 for  
7                   confirmation.]

8                   SENATOR LEWIS: Mr. Richard Early.

9                   Good morning.

10                  MR. EARLY: Good morning, Mr. Chairperson, Senate  
11 Rules Committee Members, and guests.

12                  I am Richard Early, Warden appointee at North  
13 Kern State Prison in Delano. Thank you for giving me this  
14 opportunity to come before you.

15                  My professional experience in the correctional  
16 setting began June 18, 1974 as a youth counselor at the  
17 California Youth Authority facility, El Paso de Robles School at  
18 Paso Robles, California.

19                  Since that time, I have occupied and have been  
20 promoted in a variety of assignments, such as senior youth  
21 counselor, parole agent I, correctional lieutenant, correctional  
22 counselor I, correctional counselor II, correctional captain,  
23 program administrator, associate warden, chief deputy warden,  
24 and to my current position of warden appointee.

25                  I have worked in a variety of work locations. In  
26 addition to Paso Robles, I have worked at facilities in  
27 Whittier, San Luis Obispo, Stockton, Jamestown, Vacaville,  
28 Susanville, Blithe, and Delano.

1 My formal education consists of possessing a  
2 Bachelor of Arts Degree in political science from the University  
3 of California at Riverside, and a Master of Arts Degree in  
4 education, with a specialization in counseling and guidance from  
5 Cal Poly State University at San Luis Obispo.

6 The institution that I currently oversee houses  
7 at 200 percent overcrowding: 5,288 inmates; and employs 1,254  
8 staff members; 3,976 of the beds are dedicated to our reception  
9 processing unit, where inmates are primarily received from Los  
10 Angeles, Riverside, Tulare, Madera, Monterey, and San Benito  
11 County.

12 My main objective is to maintain the public  
13 safety in an efficient manner, making North Kern State Prison a  
14 meaningful and safe working place for employees, a beneficial  
15 and safe place for inmates to serve their sentence, and a  
16 valuable neighbor serving the community.

17 Thank you.

18 SENATOR LEWIS: Lewis thank you very much.

19 Questions from Members? Senator Hughes.

20 SENATOR HUGHES: Good morning.

21 MR. EARLY: Good morning.

22 SENATOR HUGHES: I'd like to know if you feel  
23 that the increase in the incidence of contagious diseases, such  
24 as tuberculosis, has added to problems of your operation, or are  
25 you aware of that?

26 MR. EARLY: I have not experienced any  
27 significant problems at my institution.

28 SENATOR HUGHES: So, you don't have a significant

1 amount of any contagious diseases?

2 MR. EARLY: No.

3 SENATOR HUGHES: What about the ability of your  
4 staff to be able to talk to you? How do you handle that? How  
5 do you know when they feel free and comfortable to come to you  
6 and complain?

7 MR. EARLY: First of all, I do a lot of walking  
8 around my institution also. And when I meet with my staff, I  
9 let them know that I also have an open-door policy, and that  
10 they don't -- they do not even have to make a schedule to come  
11 in and talk to me. So, I have an open-door policy, and usually  
12 80 to 90 percent of the time, when they arrive at my office, I'm  
13 able to have them come in and we can have our discussion.

14 SENATOR HUGHES: What about drug use in your  
15 institution?

16 MR. EARLY: We have recently established a  
17 computer-based program where we cross-reference outgoing  
18 packages, money orders coming into the institution, money going  
19 out of the institution. And we cross-reference all of that  
20 information.

21 As a result of that, most recently we were  
22 successful in arresting a visitor from Los Angeles County, where  
23 she had been soaking computer paper with meth, and typing a  
24 letter on the paper, and shipping it into the institution.

25 We were able to gather the intelligence based on  
26 us compiling all that information, and monitoring telephone  
27 calls, and we were able to go and arrest that person.

28 And also, we were able to get a search warrant



1 and get the computer in our custody, and we were able to  
2 identify her writing to eleven other institutions. And we are  
3 gathering further intelligence as far as other inmates involved  
4 in the system also being involved in bringing drugs in.

5 SENATOR HUGHES: Then, did you consequently share  
6 this information with other wardens so they could be alerted to  
7 this new system?

8 MR. EARLY: That's correct.

9 SENATOR HUGHES: See how smart women are?

10 [Laughter.]

11 SENATOR KNIGHT: Was that a woman that was doing  
12 that?

13 MR. EARLY: Yes, it was.

14 We work very closely with the Kern County D.A.'s  
15 office.

16 SENATOR HUGHES: What kind of whistle blowing  
17 protection do you have to ensure your staff that they can feed  
18 to you information, and you are a confident, and you will watch  
19 out for them?

20 MR. EARLY: Once you've received information from  
21 staff, all types of discipline, staff discipline, whether it's  
22 informal or formal, has to come through my office. That's  
23 something that I do monitor to ensure that if someone has  
24 provided me some information, that there is no supervisor that's  
25 going to take inappropriate actions against that employee.

26 SENATOR HUGHES: What would you do if you had  
27 been told that another employee was basically discriminating or  
28 attacking someone else who had been an informant? What would

1 you do, not really knowing whether it was fact or fiction? How  
2 would you go about it?

3 MR. EARLY: First of all, I'd open up a  
4 formalized investigation, because it's the only way that you  
5 could gather any information to make a determination whether  
6 there is some merit to the information that was provided to me.

7 SENATOR HUGHES: But then, how do you really know  
8 that the person isn't imagining it, and suppose the person says,  
9 "Well, they're picking on me because I'm an ethnic minority,"  
10 and you should understand how it is when you're an ethnic  
11 minority, then what do you really do? You feel sensitive about  
12 it, but how are you going to really be sure that you're getting  
13 the truth?

14 MR. EARLY: Well, if I have not received any  
15 factual information to make a decision once I've got the  
16 complete product from my investigation, then I bring the  
17 employee in, especially if the person is a minority employee,  
18 and probably I have some discussions with him, and probably talk  
19 with him -- him or her -- and go over my own personal  
20 experiences that I've had, that I've encountered in my 25  
21 years.

22 SENATOR HUGHES: Thank you.

23 SENATOR LEWIS: Senator Baca.

24 SENATOR BACA: Thank you.

25 Richard, you mentioned some of the educational  
26 institutions. Were there any other educational institutions  
27 that you happened to go to as well?

28 MR. EARLY: Yes. I received an Associate of Arts

1 Degree at San Bernardino Valley Junior College.

2 SENATOR BACA: I didn't hear that.

3 MR. EARLY: I received a degree in liberal arts.

4 SENATOR BACA: Thank you.

5 What are you doing right now to reduce the  
6 problems that are escalating in reference to drugs in prisons?

7 And then the second question is, is it increasing  
8 or decreasing? What are you doing, what can be done, and is it  
9 increasing or decreasing?

10 MR. EARLY: I would like to think that we're  
11 winning the war.

12 I think once we stop one method of them getting  
13 the drugs into the institutions, they develop another mode of  
14 trying to get the drugs inside. So, once we plug the hole in  
15 one method, we do some training of staff -- this is what we've  
16 got; this is what we've found -- then enhance their knowledge in  
17 trying to keep the drugs from getting inside, so that they will  
18 know that at one time, this was the mode or the method, and the  
19 drugs getting inside. That's a way that we need to focus a lot  
20 of attention on that method to try to deter it from coming in.

21 SENATOR BACA: Do you feel that it is high in  
22 reference to the amount of drugs in prisons or not?

23 MR. EARLY: I haven't seen any significant change  
24 in the last 10-15 years. I think it's about -- personally,  
25 there's no data or statistics that I can support my feelings on  
26 that, but I don't think there's any change within the last 10-15  
27 years as far as the drugs getting inside.

28 SENATOR BACA: So the community and others feel



1 it's high; so therefore, it hasn't changed?

2 MR. EARLY: Repeat your question, Senator.

3 SENATOR BACA: So, apparently the community has a  
4 perception that's of a high use of drugs or smuggling the drugs  
5 in prison. So if it hasn't changed and it's still high, is that  
6 in the perception of the public or not?

7 MR. EARLY: I would like to think we're winning  
8 the war, and there has been a significant decrease, but I don't  
9 have any data to support that.

10 SENATOR BACA: A couple of other questions. In  
11 reference to the ethnicity, what is the ethnicity break down of  
12 the prison where you're at right now?

13 MR. EARLY: My institution, 48 percent of my  
14 staff are Caucasian, 33 percent Hispanic, and 13 percent Black,  
15 and the rest are others.

16 SENATOR BACA: Thank you.

17 SENATOR KNIGHT: I have a question.

18 SENATOR LEWIS: Senator Knight.

19 SENATOR KNIGHT: It indicates that you've got  
20 about 8 percent of the inmates in academic programs, and 12  
21 percent in vocational programs. That's about 20 percent of the  
22 total.

23 That seems like a small number. Is that  
24 standard, or is there a reason we can't get more into rehab  
25 programs?

26 MR. EARLY: Well, the primary mission of my  
27 institution is reception center processing. One-fourth of my  
28 prison houses general population inmates, so I will not have the



1 academic programs that the other institutions would offer due to  
2 the fact that -- due to the small number of general population  
3 inmates that are housed at my institution.

4 SENATOR KNIGHT: So, that 20 percent is almost  
5 the 25 percent that would be eligible.

6 MR. EARLY: That's correct.

7 SENATOR LEWIS: Senator Burton.

8 CHAIRMAN BURTON: Just to follow-up on Senator  
9 Baca.

10 I guess you consider on drugs coming into prison,  
11 they come in by what, employees and visitors, I guess? How do  
12 drugs get into prison?

13 MR. EARLY: A majority of the drugs get into  
14 prison via the visitors bringing the drugs in during our visits.

15 CHAIRMAN BURTON: And then the rest are brought  
16 in by employees?

17 MR. EARLY: Since I've been at my institution, I  
18 have not received any information of employees bringing drugs  
19 inside my facility.

20 CHAIRMAN BURTON: What do you think? If there's  
21 a majority, there's got to be a minority.

22 I'm not trying to get you to accuse anybody, but  
23 we have this concern about drugs in prisons.

24 MR. EARLY: I'm not saying it's not happening.

25 CHAIRMAN BURTON: You're not aware?

26 MR. EARLY: That's correct.

27 CHAIRMAN BURTON: In your prison, do you have any  
28 concern of what kind of programs you have that might prevent

1    recidivism, so maybe when they get out, you don't see them  
2    again?

3                   MR. EARLY:   Currently, I'm thinking about  
4    expanding my pre-release program.   Currently, 90 days prior to  
5    the for inmate's paroling, he's eligible to enroll into our  
6    pre-release program.   It's currently a three-week program, and  
7    we're doing some brainstorming in an attempt to expand it to six  
8    weeks.

9                   CHAIRMAN BURTON:   Is that kind of an expensive  
10   item or what?

11                  MR. EARLY:   No, because most of the individuals  
12   that come in are the presenters, are generally the public, so  
13   it's just a matter of us --

14                  CHAIRMAN BURTON:   I would think that that could  
15   help.   I don't know if six weeks gets your ready, but it's sure  
16   better than three.

17                  How about educational programs in the  
18   institution?

19                  MR. EARLY:   What programs are available at my  
20   institution?   I have adult basic education I, II, III.   I offer  
21   high school GED and computer lab.

22                  CHAIRMAN BURTON:   What's the waiting list?

23                  MR. EARLY:   For my academic program it's roughly  
24   200 inmates.

25                  CHAIRMAN BURTON:   That are waiting to get in?

26                  MR. EARLY:   That's correct.

27                  CHAIRMAN BURTON:   How about for like basic --

28                  MR. EARLY:   But those inmates that are waiting to

1 get in are also assigned -- are on -- plugged in other  
2 assignments awaiting availability.

3 CHAIRMAN BURTON: Like what?

4 MR. EARLY: Culinary.

5 CHAIRMAN BURTON: I mean, I guess if it's a  
6 vocational thing, teaching somebody a job that might be useful  
7 on the outside.

8 Why is there such a waiting list? Are you short  
9 staffed on that, or that's an expensive item, or what?

10 MR. EARLY: Well, we're trying to get three more  
11 additional teachers in there. We're thinking about expanding  
12 our educational program going into third watch.

13 Currently, the program is being offered on second  
14 watch, from roughly seven to three-thirty, and we're thinking  
15 about expanding, going to third watch.

16 CHAIRMAN BURTON: So, you've asked the Department  
17 for three more teachers.

18 MR. EARLY: That's correct. We are working on  
19 putting together a proposal.

20 CHAIRMAN BURTON: You put together, just you or  
21 any other warden, a budget like for their institution, and they  
22 forward that on to the Department, who then looks at that, and  
23 they forward it somewhere else, and then it goes into the  
24 Department of Finance?

25 MR. EARLY: That's correct.

26 CHAIRMAN BURTON: How hard do you either push for  
27 it with the Department, or does it matter whether you push or  
28 not for something? You need three teachers to do something.



1                   If you go in and really say, "This is really  
2 important for everything, including public safety," they may be  
3 more likely to do it?

4                   MR. EARLY: A lot has to do with the money  
5 availability.

6                   CHAIRMAN BURTON: It's been my experience, being  
7 around here, that the Department of Corrections is never short  
8 on dough.

9                   I'm not trying to put you on the spot. My  
10 brother spent 20 years teaching at San Quentin, so I understand  
11 the situation.

12                   It would just seem to me that unless someone was  
13 either in under the death penalty or LWOP, that we ought to have  
14 programs in prison so that when they come out, that they don't  
15 go back in. That they figured something out.

16                   A lot of the people that I know involved in this,  
17 the only thing they learned, especially newer criminals, is how  
18 to be, quote, tougher criminals, by the cons who were in there,  
19 because there's nothing coming down from our side.

20                   Pleasure of the Committee.

21                   SENATOR HUGHES: Move it.

22                   CHAIRMAN BURTON: Senator Baca.

23                   Then, before we vote, I believe you have family  
24 here you might want to introduce.

25                   MR. EARLY: Yes, I would like to introduce my  
26 significant other, Robin Burress.

27                   SENATOR BACA: Just as a follow-up to a question  
28 that the President Pro Tem, John Burton, asked in reference to

1 the educational level.

2 Do you believe that there is a high number that  
3 are on the waiting list to get in because of also the  
4 requirements of the state stating that they must have the  
5 equivalent of at least a ninth grade level to get out, so that's  
6 added to the numbers that are there? And yet, we're not  
7 providing, I guess, in one sense, an expansion in order to meet  
8 those requirements of individuals that maybe eligible for  
9 probation or otherwise?

10 MR. EARLY: That's correct. The average reading  
11 level at my institution is 6.9.

12 SENATOR BACA: And yet, we've required that they  
13 have ninth grade at least before they are released.

14 MR. EARLY: That's correct.

15 CHAIRMAN BURTON: We have a policy that says you  
16 have to be able to have a ninth grade reading to get out, and we  
17 don't provide them the ability to get a ninth grade reading?  
18 Seems kind of stupid to me.

19 In other words, it just seems stupid. It's like  
20 telling you, you've got to be able to do something in order to  
21 accomplish something, but we make it impossible for you to do  
22 it; therefore, you're never going to accomplish it.

23 I know it's not your fault. That's stupid.  
24 Whose policy is that? Whose policy is it that says people can't  
25 get out unless they obtain something?

26 As I recall, the opportunity had to be  
27 available. If it isn't, we ought to change that one. If it's  
28 stupid, we're probably looking at ourselves, but it just seems

1 to be totally unfair, telling somebody they have to accomplish  
2 something, and you have a minimum of 200 people waiting to do  
3 it. They can't get in, but you haven't got -- nobody's given  
4 you the people to open up the classrooms.

5 SENATOR BACA: Something we should look at.

6 CHAIRMAN BURTON: Absolutely. Put it in a  
7 trailer bill.

8 Moved by Senator Hughes. Call the roll.

9 Would those in support please give your name and  
10 your organization.

11 MS. AGUILERA-MARRERO: Good morning, Mr. Chairman  
12 and Members of the distinguished Committee.

13 This is my first time here, and my name is  
14 Suzanna Aguilera-Marrero. And I am the President of the Chicano  
15 Correctional Workers Association, and I am representing the 2200  
16 members and our membership.

17 And it is an honor and a privilege to come before  
18 you in support of Mr. Richard Early's candidacy for Warden. It  
19 is with great pleasure that I stand before you on behalf of the  
20 North Kern State Prison Chapter, the Central Region, and the  
21 State Board of Directors, and affirm our confidence in his  
22 accomplished administrative abilities. We strongly believe in  
23 his effective, positive and work rapport, and know he can do the  
24 job.

25 We ask that you also endorse and support the  
26 appointment. Thank you.

27 CHAIRMAN BURTON: Thank you very much. Any  
28 others?



1 MR. SEARCY: Good morning again, gentlemen and  
2 ladies, Mr. Chairman. I am Frank Searcy. I'm immediate past  
3 President of the Chicano Correctional Workers Association.

4 It gives me great pleasure to be able to also  
5 offer our support for Mr. Early. What's significant also, I  
6 don't think has been mentioned today, is that Mr. Early, a while  
7 back, a couple of years ago, was working and was assigned to the  
8 Chuckawalla Valley State Prison. Due to some trying times that  
9 the administration was experiencing at the time, Mr. Early was  
10 able to take over the reins of the institution and act as  
11 Warden. And he did this for many, many months, and  
12 overwhelmingly has proven the abilities that they had in  
13 administering that institution.

14 Again, also, I think what is very significant, he  
15 has wide, wide experience in other institutions, with Youth  
16 Authority, and similar situations as that.

17 I'd like to also offer that when years ago I  
18 happened to have the great pleasure of working for Mr. Early, he  
19 was my supervisor at a particular institution. And at times  
20 when it was necessary to come to him with a situation, a  
21 question, a problem, as my supervisor, I would ask him for a  
22 response. And I saw the same thing happening today, that when  
23 he would answer his questions, he would take his time and come  
24 up with a response. In those instances when I would ask him for  
25 a response, it would be also, he'd take his time, he'd think the  
26 question out, the situation, and then he would give me a  
27 response.

28 Fortunately, I am very happy to say that all of

1 those responses were very positive.

2 Also, he also helped me in providing my  
3 supervision and my subordinates. So again, thank you very much.

4 CHAIRMAN BURTON: Moved by Senator Hughes. Call  
5 the roll.

6 SECRETARY WEBB: Senator Baca.

7 SENATOR BACA: Aye.

8 SECRETARY WEBB: Baca Aye. Senator Hughes.

9 SENATOR HUGHES: Aye.

10 SECRETARY WEBB: Hughes Aye. Senator Knight.  
11 Senator Lewis.

12 SENATOR LEWIS: Aye.

13 SECRETARY WEBB: Lewis Aye. Senator Burton.

14 CHAIRMAN BURTON: Aye.

15 SECRETARY WEBB: Burton Aye. Four to zero.

16 CHAIRMAN BURTON: Congratulations.

17 MR. EARLY: Thank you.

18 CHAIRMAN BURTON: Cheryl K. Pliler.

19 MS. PLILER: Good morning, Senators, ladies and  
20 gentlemen.

21 My name is Cheryl Pliler. I'm currently assigned  
22 as the Warden at California State Prison, Sacramento, also known  
23 as New Folsom.

24 I began my career with the Department of  
25 Corrections in 1968. Since that time, I've worked in a variety  
26 of capacities with both the Department of Corrections and the  
27 State Parole Board, the Board of Prison Terms.

28 In all of my roles in the Department, I've worked

1 at approximately ten institutions. And as a Deputy Commissioner  
2 for the Parole Board, I've had an opportunity to see  
3 incarcerated felons from their sentencing, through their  
4 incarceration, through their parole, and in one assignment,  
5 through clemency and occasionally pardons.

6 I have been assigned --

7 CHAIRMAN BURTON: You could not have been there  
8 long enough to see a pardon.

9 MS. PLILER: Sir, I have. I've actually  
10 conducted the investigation.

11 I have been a warden for approximately four  
12 years. I was assigned as the Warden of California Correctional  
13 Center in July of 1995, was reassigned to California State  
14 Prison, Sacramento, in July of 1998, and that is my current  
15 assignment.

16 CHAIRMAN BURTON: Before we get started, do you  
17 have family that you'd like to introduce?

18 MS. PLILER: Only my Corrections family today.

19 CHAIRMAN BURTON: We'll leave them out.

20 Senator Hughes.

21 SENATOR HUGHES: Could you tell me, since you've  
22 been on the job, have you had any complaints lodged at your  
23 facility of one staff member against another?

24 MS. PLILER: Yes, ma'am.

25 SENATOR HUGHES: How many of these, and how have  
26 you handled them?

27 MS. PLILER: In my current assignment at New  
28 Folsom, I have not. In my former assignment at the California



1 Correctional Center there were two complaints of line-level  
2 uniformed staff and counselors who had complained of a  
3 supervisory staff member retaliating against them for failure on  
4 the line employee's part to succumb to advances.

5 SENATOR HUGHES: Really.

6 MS. PLILER: Yes, ma'am.

7 SENATOR HUGHES: Is this male or female?

8 I have to ask this because I don't really know.

9 Stop laughing, Mr. Knight. I really want to know.

10 MS. PLILER: Actually, it was one of each.

11 SENATOR HUGHES: One of each.

12 MS. PLILER: A female supervisor, male line  
13 staff; and female line staff person and a male supervisor.

14 Investigations were conducted. The employees  
15 were found responsible, the supervisory employees were found  
16 responsible, and in one case I moved to terminate. In another  
17 case, we moved to demote.

18 SENATOR HUGHES: What about male correctional  
19 officers supervising female prisoners? Has that been a major  
20 problem?

21 MS. PLILER: I've never been assigned to a  
22 women's institution. I have been on a six-week special  
23 assignment at the California Institution for Women. And while I  
24 was at Avenal, one of our complexes was temporarily a female  
25 facility.

26 It's a very difficult assignment. We asked when  
27 Avenal -- Avenal originally was activated as an all male  
28 institution, we asked all of the staff for volunteers, for those

1 employees who wished to work with the female population. Those  
2 employees, for the most part in my career, employees of the  
3 Department of Corrections are very dedicated professionals.  
4 They try to do the right thing.

5 Some of the male employees did not wish to work  
6 with the female population. There is inherent danger in that.  
7 Those who did, did a fine job.

8 SENATOR HUGHES: What about the recidivism  
9 problem in your experience? What do you think is the major  
10 cause of a lot of residivism?

11 MS. PLILER: I think probably that the recidivism  
12 rates is probably no different than it has been for many years.

13 I believe that what appears to make it look  
14 greater was the enactment of the determinate sentencing law.  
15 What that caused is a quicker recycling, because the prisoners  
16 were no longer under the auspices of the State Parole Board.  
17 They weren't required to have minimum education. They weren't  
18 required to maintain a certain level of contact. They were  
19 sentenced to determinate term by the courts, and they paroled  
20 recycled faster.

21 And I saw it on that end when I was a deputy  
22 commissioner, and I was revoking paroles and returning  
23 individuals back to prison.

24 What I have seen in my career is, of course, as  
25 the felons become older, they become more burned out -- burn-out  
26 is the expression. They get tired of playing the game; they get  
27 tired of doing the drugs; they get tired of the gang mentality  
28 and being involved in that culture.

1           The younger inmates, more involved with the drug  
2 culture, are more prone to go back to that culture when they  
3 parole, and it's kinds of a self-fulfilling prophecy.

4           SENATOR HUGHES: Thank you.

5           SENATOR LEWIS: Senator Burton.

6           CHAIRMAN BURTON: To follow up, so the  
7 percentages are the same, roughly, but because there's more  
8 people, then there's more numbers.

9           MS. PLILER: That's my feeling, sir, yes.

10          CHAIRMAN BURTON: You said something about under  
11 the indeterminate sentence, a lot of them don't have to involve  
12 themselves in inmate education.

13          MS. PLILER: That's correct.

14          CHAIRMAN BURTON: Every bit of information we've  
15 gotten is that there aren't enough inmate education slots to fit  
16 the people that want to get in them anyway.

17          MS. PLILER: There are waiting lists statewide,  
18 Senator. But there is no requirement.

19          CHAIRMAN BURTON: But if you're required to do  
20 something that the state doesn't let you do because you can't  
21 get in the room, what kind of requirement would that be? A very  
22 unfair requirement.

23          MS. PLILER: That's what I'm saying, Senator.  
24 There is no requirement.

25          CHAIRMAN BURTON: But if you've got waiting lists  
26 now when it's not required, see how unfair it would be? In  
27 other words, I think it should be required, but I think they  
28 should have the ability, there should be somebody there to teach



1    them.

2                   In other words, you have waiting lists on a  
3   voluntary basis.  If it was required, God knows when it would  
4   be.  Then, depending on who the person is, you'd wonder if  
5   they'd shank the guy ahead of them on the waiting list in order  
6   to get in to get out.

7                   It's not in your field, but what is the cost of  
8   hiring a teacher there?

9                   MS. PLILER:  Depending on whether it's an  
10  academic instructor or a vocational instructor, it's about  
11  \$35,000 a year.

12                  CHAIRMAN BURTON:  That's cheaper than the price  
13  of a correctional guard; right?

14                  MS. PLILER:  Oh, yes.

15                  CHAIRMAN BURTON:  Let's see, if we let Novey  
16  organize the teachers --

17                               [Laughter.]

18                  MS. PLILER:  I'm sure Mr. Novey would be glad to  
19  do that for you.

20                  CHAIRMAN BURTON:  It would seem that would really  
21  be a pretty good investment.  Because I looked at the list that  
22  Corrections used to put out, and it was a sheet about this big,  
23  and it had breakdowns by age, by race, blah, blah, blah, by  
24  crime and by education.  It was amazing when, if you had college  
25  graduates, the only violent crimes were probably domestic  
26  crimes, you know, husband shooting wife, or  
27  boyfriend-girlfriend.

28                  When you got down to community college, it still

1 wasn't much, maybe a bar fight.

2           Then when you got down to 6th grade, 7th grade,  
3 8th grade, that's when you got the real violent crimes. There  
4 were very few PhDs that actually got involved in drive-by  
5 shootings and muggings, and things like that.

6           I would think if one of the best ways to maybe  
7 stop people from coming back, beside the old age deal, is  
8 education, ability when they get out, to maybe find a way to  
9 make if not a decent, certainly an honest living.

10           I know that Presley, when he was here, was very  
11 big on education, and others were not.

12           Let me ask you, since you talked about burn-out,  
13 when they get old. And probably you can't comment on this  
14 because this will get you in trouble with the Governor.

15           But it would seem to me that at least prisoners  
16 over the age of 70, if they were put out in some kind of either  
17 local corrections or electronic monitoring, or who knows what,  
18 it would probably save the state a lot of money and not really  
19 be that big a threat, because they just say as they get older,  
20 you know, that the profiles of violent crime are not bunch of  
21 geriatric people. They're more probably 20s, 30s, maybe 40s  
22 tops. I think once they get into their 50s, unless they're  
23 unique, they lose that.

24           Can you comment on that? We can confirm you  
25 quick, and he can't take the job away.

26                           [Laughter.]

27           MS. PLILER: Certainly there is no statutory  
28 provision to allow for that. However, that would be an

1 additional alternative to incarceration.

2 CHAIRMAN BURTON: At a certain age level, with  
3 your history in the whole, from the time they come in until  
4 someone even gets pardoned, it would seem to me that's something  
5 that ought to be looked at. I don't know exactly by whom, but I  
6 just can't imagine 65 and 70 year old people being -- unless  
7 they're like con men, or something, but being much of a threat  
8 to anybody, and definitely not in prison a threat.

9 SENATOR LEWIS: With regard to the waiting list  
10 you have for academic programs, the information we had, there  
11 was a waiting list of 168 inmates when we received the  
12 information.

13 How long would that make equate to in terms of  
14 waiting?

15 MS. PLILER: Let me give you two answers to that,  
16 Senator.

17 At my previous institution, it was a different  
18 type of clientele. We would parole like 300 a month. And the  
19 waiting list was actually quite short, and it was probably three  
20 to four months to get into a class.

21 At my current institution, which is a Level IV,  
22 180 design, houses some very violent offenders doing very, very  
23 long-term sentences -- a lot of life-without-parole, and a lot  
24 of lifers as well -- it could take upwards of a year to get into  
25 a program because there is not that turnover.

26 SENATOR LEWIS: Thank you.

27 Senator Baca.

28 SENATOR BACA: Couple of questions to follow-up



1 on what the President Pro Tem asked in reference to the  
2 educational level.

3 Are you aware that there is a requirement to be  
4 paroled out that you must obtain a least a 9th grade level to be  
5 paroled?

6 MS. PLILER: No, sir, I am not.

7 SENATOR BACA: There is legislation that was  
8 passed that requires for an individual to be paroled, they must  
9 have at least a 9th grade level of education.

10 MS. PLILER: Contrary to their court sentencing?

11 SENATOR BACA: I don't know about that, but just  
12 to be released from prison, anybody who is serving right now who  
13 has not got a GED or a high school diploma, before he or she can  
14 be released, must have the equivalent of at least a 9th grade  
15 level of education.

16 It was legislation, I believe, that went through  
17 last year. At least that's what I've been informed. Maybe  
18 that's one of the reasons why there's a waiting list.

19 What is the criteria, then, for individuals to  
20 get into an educational program, whether it be especially for  
21 high school, GED, or the equivalent? Is there a criteria?

22 MS. PLILER: They need to want to. In some  
23 locations, depending on the type of institution, it could be a  
24 requirement: their first 12 months in the institution, they  
25 must participate in an education program if they don't have  
26 their GED or high school diploma.

27 For vocational programs, they are required to  
28 have in some programs an 8th grade reading level, in some

1 programs a 9th grade reading level.

2 So, those are the minimum requirements.

3 SENATOR BACA: But no criteria based on an  
4 individual that may be up for parole, or something like this,  
5 who may be getting out, that we want to make sure that if we  
6 deal with the return rate, to make sure that at least they have  
7 the educational level before they get into society. There is  
8 none that they would have precedence over someone else that  
9 maybe on waiting list, that is not going to get out, that is a  
10 life-time sentence, versus someone that is not.

11 There is no criteria?

12 MS. PLILER: Not at this point, Senator, no.

13 SENATOR BACA: It's maybe something that we  
14 should look at, because those are the individuals that are  
15 coming into our society that should have the educational level  
16 to make sure they don't come back. That's something that maybe  
17 we've got to look at.

18 What are you doing to reduce the drug problems  
19 that we have the prisons? Apparently there is still a high  
20 number of drugs in prisons. Is it decreasing or increasing?

21 MS. PLILER: Senator, I'd like to think we're  
22 ahead of the curve, but sometimes I wonder.

23 Drugs come into the institution in a number of  
24 different ways. We use various surveillance techniques, both  
25 telephone and video in the visiting rooms, and as well as in the  
26 communities.

27 We have informants who provide us information  
28 that drugs are being brought into the institution. We intercept

1 correspondence, both incoming and outgoing.

2 And unfortunately, periodically we will have a  
3 staff person who is involved, and that person is swiftly  
4 terminated.

5 SENATOR BACA: Couple of other questions that I  
6 have.

7 I visited Folsom. I took a trip down with other  
8 Legislators last year. You were not there.

9 What are you doing to address overcrowding now at  
10 the institution?

11 I went there, and I saw bunkbeds, military-like  
12 style. I know that is a problem.

13 MS. PLILER: New Folsom is at design capacity,  
14 which is a single cell, is at about 1596 Level IV inmates.  
15 Currently there are about 2900 inmates. It's come down about  
16 400 inmates in the last several months because our population is  
17 changing significantly, and we will, because of our Psychiatric  
18 Services Unit, which will come up at end of June, we are going  
19 to have some single cell status.

20 One of our gyms is activated for minimum level  
21 inmates. We do have 100 inmates housed in one of our gyms.

22 Overcrowding is a significant problem.  
23 Currently, with our single cell policy, if we have a predatory  
24 inmate or a victim type of inmate, they are single celled. They  
25 are not double celled, nor are they forced to be double celled.  
26 It puts a tremendous strain on the living conditions in the  
27 institution.

28 Responsible estimates would venture to say that



1 by 2002, we will be out of beds.

2 SENATOR BACA: Does overcrowding also create a  
3 lot of the problems that may arise in prisons because of riots  
4 or otherwise, or inmates, or people getting a little hostile?

5 MS. PLILER: It certainly contributes to it.  
6 It's a very unnatural environment to begin with, and especially  
7 when you get into situations where men are housed in gymnasiums,  
8 100, 200, 300 men to a gym. They get on each other's nerves.  
9 There's no sense of being alone.

10 At least with a cell, they have their own cell.  
11 They may have a roommate, but they have their own cell.

12 SENATOR BACA: Should any policies be changed to  
13 reduce overcrowding right now?

14 MS. PLILER: Senator, with the intake that we  
15 have at this point, and the Department certainly has no control  
16 over the court systems in terms of sentencing, the problem will  
17 continue to escalate until we have more beds or until other  
18 alternatives to incarceration are seriously considered,  
19 including parole violators.

20 SENATOR BACA: One final question. What is the  
21 ethnicity or the diversity break down of the staff at your  
22 institution?

23 MS. PLILER: Currently at New Folsom, there's 64  
24 percent Caucasian, and the balance are people of color,  
25 employees of color, so about 36 percent. That breaks out about  
26 17 percent Black, and I believe 14 percent Hispanic. American  
27 Indians, Pacific Islanders are the balance.

28 SENATOR BACA: So, there's a low number of

1 Hispanics that are there at that institution right now that are  
2 employed or in executive managerial positions; is that correct?  
3 Based on the numbers that you gave me, there seems to be a 64  
4 percent, 16 percent African-American, and a 14 percent or less  
5 Hispanic; right?

6 MS. PLILER: It's a little breakdown for managers  
7 and supervisory. There are -- percentage in that breakdown was  
8 54 percent Caucasian, and the balance people of color, and 20  
9 percent Hispanic, and 13 percent Black in the  
10 management-supervisory ranks. And that's a matter of  
11 recruitment.

12 SENATOR BACA: I'd hope you'd look at, and I'd  
13 like to see, hopefully, the areas of improvement, especially  
14 diversity for upwards mobility in that area, and especially  
15 people of color. And, of course, qualified individuals.

16 I hope that you look towards increasing those  
17 numbers in the future as we confirm your appointment.

18 MS. PLILER: Thank you.

19 SENATOR LEWIS: Senator Knight.

20 SENATOR KNIGHT: Thank you, Mr. Chairman.

21 It seems as though our Chairman is coming up with  
22 a new profession, the senior citizen hit man.

23 You know, you indicated that the inmates mellow  
24 as they get older, and we certainly do.

25 [Laughter.]

26 SENATOR KNIGHT: Is it the seniors who are  
27 contributing to the frivolous lawsuits, or is there no  
28 correlation to frivolous lawsuits and age of inmate?

1 MS. PLILER: Sir, I've seen no  
2 correlation.

3 SENATOR BACA: Move the nomination.

4 SENATOR LEWIS: We have a motion from Senator  
5 Baca.

6 Do you have anyone with you here today that you'd  
7 care to introduce?

8 MS. PLILER: No, Senator. Thank you.

9 SENATOR LEWIS: Let's hear from anyone in the  
10 audience who wishes to testify in favor of the nomination.

11 MR. SEARCY: Thank you very much again, ladies  
12 and gentlemen. I'm Frank R. Searcy, and I'm here to personally  
13 support Ms. Plier for her position as Warden at New Folsom.

14 Her career experience is overwhelming and speaks  
15 for itself.

16 I think I should be very brief, but one thing I'd  
17 like to point out to the Committee, that as we were listening to  
18 her responses, at times it would even take a little bit of  
19 effort to really be able to hear that.

20 But what I detected was that the questions that  
21 were put to her, she somehow was also able then to -- everyone  
22 would ask the question in the same tone that she put out. So,  
23 if she's able to do this here, it's obvious that she can do that  
24 with her staff, with her inmates at her institution, which is  
25 going to be very, very beneficial to her at Warden there.

26 And we thank you for your votes for confirmation.  
27 Thank you.

28 SENATOR LEWIS: Thank you.



1 Next.

2 MS. AGUILERA-MARRERO: Thank you.

3 I'm Suzanna Aguilera-Marrero on behalf of the  
4 Chicano Correctional Workers Association, 2200 strong.

5 It's an honor to be here before you again in  
6 support of Ms. Cheryl Pliler. Her Chapter, Level CCWA, very  
7 much is in support of her, is in total confidence of her  
8 abilities to be an administrator and fully support her, as does  
9 the region of the North, and the State Board of Directors.

10 Thank you.

11 SENATOR LEWIS: Thank you very much. Anyone  
12 else?

13 Anyone wanting to testify in opposition to the  
14 nomination?

15 We already have a motion by Senator Baca.

16 Please call the roll.

17 SECRETARY WEBB: Senator Baca.

18 SENATOR BACA: Aye.

19 SECRETARY WEBB: Baca Aye. Senator Hughes.

20 SENATOR HUGHES: Aye.

21 SECRETARY WEBB: Hughes Aye. Senator Knight.

22 SENATOR KNIGHT: Aye.

23 SECRETARY WEBB: Knight Aye. Senator Lewis.

24 SENATOR LEWIS: Aye.

25 SECRETARY WEBB: Lewis Aye. Senator Burton.

26 Four to zero.

27 SENATOR LEWIS: It's currently four to nothing.  
28 We will put that on call as well for Senator Burton.

1                   Congratulations.

2                   MS. PLILER: Thank you.

3                   [Thereafter, CHAIRMAN BURTON  
4                   added his Aye vote, making  
5                   the final vote 5-0 for  
6                   confirmation.]

7                   [Thereupon this portion of the  
8                   Senate Rules Committee hearing was  
9                   terminated at approximately 10:18 A.M.]

10                   --ooOoo--



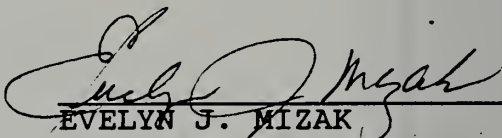
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That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 27<sup>th</sup> day of May, 1999.

  
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APPEARANCESMEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR JOHN LEWIS, Vice Chair

SENATOR JOE BACA

SENATOR TERESA HUGHES

SENATOR WILLIAM KNIGHT

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

WADE TEASDALE, Consultant to SENATOR LEWIS

FELICE TANENBAUM, Consultant to SENATOR HUGHES

ANDY PUGNO, Consultant to SENATOR KNIGHT

MANNY HERNANDEZ, Consultant to SENATOR BACA

ALSO PRESENT

JAMES THEODORE HUNT, Member  
Alcoholic Beverage Control Appeals Board

TIM YARYAN  
Los Angeles Police Protective League  
Los Angeles Deputy Sheriffs  
Los Angeles Probation Union

AARON READ  
Peace Officers Research Association of California, PORAC  
Highway Patrol Association

WILLIAM HEMBY  
California Organization of Police and Sheriffs

DEL HAWES, CEO  
Alcoholic Beverage Control Appeals Board



1 JOSE E. MEDINA, Director  
2 Department of Transportation

3 SENATOR RICHARD POLANCO

4 SENATOR DON PERATA

5 RON GONZALES, Mayor  
6 City of San Jose

7 GRISELDA BARAJAS, Vice President  
8 Business Advocacy  
9 Sacramento Hispanic Chamber of Commerce

10 JOHN RUEDA  
11 California Hispanic Chambers of Commerce

12 PAUL COHEN  
13 Northern California Carpenters

14 ROLANDO ARANGO, President  
15 California Hispanic Professional Association

16 MASSEY VILLAREAL, Chairman of the Board  
17 United States Hispanic Chamber of Commerce

18 DAVE ACKERMAN  
19 California Chamber of Commerce  
20 Associated General Contractors

21 LES SPAHN  
22 National Railroad Passenger Corporation (Amtrack)

23 D. J. SMITH  
24 Transportation California

25 JIM HARD, Civil Service Division Director  
26 California State Employees Association, SEIU Local 1000

27 IRENE GUTIERREZ-GARZA  
28 CAFÉ, Southern California Region

TIM CREMINS  
Operating Engineers, AFL-CIO

MARSHALL DIAZ  
CAFÉ de California  
Projecto del Barrio





1 SAM ORTEGA, Vice President  
California Mexican American Veterans Memorial

2 JOHN LIRA, Member  
3 San Francisco Telecommunications Commission

4 ROBERT PERNELL  
5 California State Council of Laborers

6 CARLOS AQUINO  
7 Ambiente de Latino Democratic Club, San Francisco

8 PAULA FISCAL, Member  
9 San Francisco Alcoholism Advisory Board  
Curtin Pacific Institute for Criminal Justice

10 EDMUNDO LOPEZ  
Hispanic Contractors Association  
11 Mexican-American Business and Professionals, San Diego

12 WILLIAM HEMBY  
13 California Organization of Police and Sheriffs

14 FLOYD CHAVEZ  
15 Northern California Latin Business Association

16 PAUL GUERRERO  
California Small Business Alliance

17 DIANA LaCOME  
18 National Concilio of America

19 DeAnn BAKER  
20 California State Association of Counties

21 NATASHA FOOMAN  
League of California Cities

22 ROBERT McKAY, President  
23 American Indians State Employees of California

24 CRAIG COPELAN, President-elect  
25 Professional Engineers in California Government

26 BILL GARCIA, Legislative Chairman  
27 American GI Forum, California

28 BEN SHAWNEEGO, President  
National Indian Contractors



1 JOHN MOLINA  
Labor Council for Latin American Advancement

2  
3 JOHN LEMMENS  
CAFÉ, California

4 FRANK RAMIREZ, National Advisor  
5 American GI Forum

6 ROBERTO VELLANOWETH  
7 LULAC

8 RAUL ORTEGA, Commander  
9 American GI Forum, Modesto Chapter

10 ZELDA SAMANSUETTI, President  
American-Mexican War Mothers Organization

11 DON A. DRUMHELLER, Past Department Commander  
12 American Legion

13 JULIAN CAMACHO  
14 Northern California Association of 8A

15 MEL ASSAGAI  
California Trucking Association

16 ROBERT JACOBVITZ  
17 American Institute of Architects, San Francisco

18 STEVEN J. YBARRA  
19 CDP Chicano Latino Caucus

20 MARIA LUISA VILLA  
Comite Mexicano Civico Patriotico

21 DAVE ALDAPE  
22 Mission Council on Alcoholic Abuse by the Spanish Speaking

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## P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: Next order of business, J. Theodore Hunt, Member of Alcoholic Beverage Control Appeals Board appointment, Ted.

MR. HUNT: My name is Ted Hunt. I want to thank you very much for giving me the opportunity to be here today.

I'd like to tell you a few details about myself, about the Alcoholic Beverage Control Appeals Board, and explain the direction in which I intend to take the Board.

My wife Mary and I have a blended family. I had four children and Mary had two when we got married, and we subsequently adopted a two-year-old child.

I've been a Los Angeles police officer since 1975. In 1995, I was elected to the Board of Directors of the Los Angeles Police Protective League, which is LAPD's rank-and-file police association. I'm currently assigned to the Protective League where I serve as a full-time union executive.

In 1996, I was appointed by Governor Wilson to the Commission on Peace Officer Standards and Training, or POST. I was the only person of police officer rank nationwide to be invited by the United States Department of Justice to address the National Symposium on Police Integrity.

I have a doctorate in public administration from the University of La Verne.

The Department of Alcoholic Beverage Control and the separate Alcoholic Beverage Control Appeals Board, to which I've been appointed, were created in the same constitutional

1 amendment. The Appeals Board is composed of three members. The  
2 Board's principle task is to hear and rule on decisions made by  
3 the Department. If a person's dissatisfied with the decision of  
4 the Department of Alcoholic Beverage Control, that person can  
5 appeal the Department's decision to the Appeals Board which acts  
6 as an appellant tribunal.

7 I envision that the Appeal's Board will continue  
8 to render logical, just, and fair decisions which will protect  
9 the people of this state, which includes those who are licensed  
10 by ABC, and those who administer our laws.

11 I'd be happy to answer any questions that you may  
12 have.

13 CHAIRMAN BURTON? Senator Lewis.

14 SENATOR LEWIS: Just one question.

15 I understand in the last four years, the number  
16 of appeals has greatly multiplied. What's the principle cause  
17 for that?

18 MR. HUNT: The appeals have greatly increased.  
19 And I can only speculate because I've only been there for  
20 approximately two months, but I do believe that in part it's a  
21 three-strikes bill, if you will, where if a licensee gets a  
22 strike, on the third strike they lose their license. And based  
23 on that, people are more inclined to appeal those rulings.

24 What we have done to that extent is, the staff  
25 has done a stellar job of dealing with those issues, and we have  
26 some contingency plans in mind if it continues to rise.

27 CHAIRMAN BURTON: Senator Baca.

28 SENATOR BACA: Thank you, Senator.



1 Ted, as a long-time member of law enforcement in  
2 the community of Los Angeles, what is your opinion about whether  
3 the laws and regulations controlling liquor licenses are  
4 adequately discouraging illegal access to liquor by those under  
5 the age of 21?

6 MR. HUNT: That's perhaps one of the most serious  
7 problems that the Department has to deal with. And in our  
8 function as the Appeals Board, the only thing that we would do  
9 is to listen to the appeals by the licensees and to rule on  
10 those.

11 SENATOR BACA: Thank you.

12 CHAIRMAN BURTON: If a person's awarded a  
13 license, they apply for license; they do the posting. There's a  
14 protest. They have a hearing. The license is then granted.

15 Does one letter then trigger the Appeals Board to  
16 hold a hearing?

17 MR. HUNT: I believe, Senator, that if one person  
18 protests the license, then it goes to an administrative law  
19 judge. I may not have that completely accurate. And then based  
20 on that, a person can write a separate letter to appeal it to  
21 the Appeals Board.

22 CHAIRMAN BURTON: Do you have to take every  
23 appeal?

24 MR. HUNT: As I understand, yes, Senator, we take  
25 every appeal.

26 CHAIRMAN BURTON: Is that by custom or by law;  
27 do you know?

28 MR. HUNT: I believe that's Constitutional law.

1 CHAIRMAN BURTON: It's in the Constitution that  
2 the ABC Appeals Board, one person protests a license, that they  
3 must be granted that hearing.

4 MR. HUNT: The technical and legal answer, I  
5 don't have. I will get back to you on it.

6 CHAIRMAN BURTON: We can check it out.

7 Then, if a license is denied as a result of the  
8 administrative law judge hearing, then the applicant does have a  
9 right to appeal to you?

10 MR. HUNT: Correct.

11 CHAIRMAN BURTON: Pleasure of the Committee.

12 SENATOR BACA: Move.

13 CHAIRMAN BURTON: Moved by Senator Baca. Call  
14 the roll.

15 Is your family present that you want to  
16 introduce?

17 MR. HUNT: My family is at home. With the a  
18 two-year-old it's difficult to travel. But I do have some  
19 friends here.

20 CHAIRMAN BURTON: Those who are in support, just  
21 come up and quickly give your names, your organization, and your  
22 support.

23 MR. YARYAN: Tim Yaryan on behalf of the Los  
24 Angeles Police Protective League, the Los Angeles Deputy  
25 Sheriffs, Los Angeles Probation Union, in strong support of Mr.  
26 Hunt's confirmation.

27 MR. READ: Aaron Read, representing Peace  
28 Officers Research Association of California, PORAC, and the



1 Highway Patrol Association.

2 We are delighted to be here to support Ted Hunt,  
3 a great friend of ours and a great friend of California.

4 MR. HEMBY: Bill Hemby, representing the  
5 California Organization of Police and Sheriffs.

6 We're here to support Mr. Hunt. Thank you.

7 MR. HAWS: If I can just add a comment. I'm the  
8 CEO of the Alcoholic Beverage Control Appeals Board.

9 I have only worked with Mr. Hunt for approximately two,  
10 two-and-a-half months, but my assessment of this gentleman --

11 CHAIRMAN BURTON: Your name, sir?

12 MR. HAWS: Del Haws.

13 My assessment of this gentleman is that he is  
14 well qualified. His heart is intended to bring fairness and  
15 justice to the system, and I look forward to working with this  
16 gentleman.

17 CHAIRMAN BURTON: Do you have the answer to  
18 that? Is it a automatic, one person can appeal a license that  
19 was granted, and the Board has to hold a hearing on that?

20 MR. HAWS: Yes, in a sense, in that any party may  
21 appeal a decision of the Department of ABC.

22 CHAIRMAN BURTON: Right.

23 MR. HAWS: And so, that is, one person or fifty.  
24 It doesn't matter. We have to accept that as an appeal if it's  
25 timely.

26 CHAIRMAN BURTON: Then you hold the appeal  
27 hearing.

28 MR. HAWS: That is correct.

1 CHAIRMAN BURTON: Thank you.

2 Any opposition.

3 Call the roll.

4 SECRETARY WEBB: Senator Baca.

5 SENATOR BACA: Aye.

6 SECRETARY WEBB: Baca Aye. Senator Hughes.

7 Senator Knight.

8 SENATOR KNIGHT: Aye.

9 SECRETARY WEBB: Knight Aye. Senator Lewis.

10 SENATOR LEWIS: Aye.

11 SECRETARY WEBB: Lewis Aye. Senator Burton.

12 CHAIRMAN BURTON: Aye.

13 SECRETARY WEBB: Burton Aye.

14 CHAIRMAN BURTON: Hold the roll open for Senator  
15 Hughes.

16 Congratulations.

17 [SENATOR HUGHES later added

18 her Aye vote to the record.]

19 CHAIRMAN BURTON: Next is the Director,  
20 Department of Transportation, Jose Medina.

21 Senator Polanco.

22 SENATOR POLANCO: Good morning, Mr. Chairman and  
23 Members.

24 CHAIRMAN BURTON: If I could before you start, I  
25 just want to welcome my constituent and long time friend, Jose  
26 Medina, who I believe will bring a fresh new look to the  
27 Department of Transportation.

28 There's been some criticism in the press that

1 you're not an engineer, you haven't been that fully involved in  
2 some of the issues, which may be a blessing, because we've had a  
3 lot of engineers, we've had a lot of screwed up transportation  
4 problems, so who knows.

5 [Applause.]

6 CHAIRMAN BURTON: Thank you.

7 SENATOR POLANCO: Mr. Chairman and Members, I'm  
8 here today to lend my support and to ask the Committee to  
9 support this recommendation.

10 Jose Medina is an attorney. He is a community  
11 leader. He's a role model. He has had experience as a labor  
12 organizer. He has had experience in the public domain both as  
13 an elected official and as a member to various boards and  
14 commissions.

15 He is a graduate from Harvard Business School.  
16 He is an individual who is taking on one of the largest  
17 departments in our state administration: \$8 billion budget;  
18 20,000 employees. And we believe that the appointment that was  
19 given, or the nomination that was provided to Mr. Medina will  
20 bring the type of talent, experience and the thinking outside  
21 the box that is important.

22 What we have we had in the past, I believe, can  
23 be debated. The future is where we have the challenge. The  
24 proposal that Chairman Burton is moving with regards to  
25 expanding the infrastructure and addressing the infrastructure  
26 needs of transportation is critical. There is no other person,  
27 I think, today that is more deserving of this particular  
28 appointment than Jose Medina.



1 I'm here to ask for your consideration and  
2 support. He'll do an outstanding job. His record verifies his  
3 commitment to public service.

4 With that, Mr. Chairman, thank you very much for  
5 the opportunity to present him to this very distinguished Rules  
6 Committee body.

7 CHAIRMAN BURTON: Thank you.

8 Jose.

9 [Applause.]

10 CHAIRMAN BURTON: I think the applause you gave  
11 the Chairman with his comments will suffice for the rest of the  
12 day.

13 In seriousness, we do not want any shows of  
14 opprobrium or approbation. Silence will serve us all well.

15 MR. MEDINA: Thank you, Senator Burton, Members  
16 of the Senate Rules Committee.

17 I first would like to thank the staff of the  
18 Senate Rules Committee for all of their assistance and advice in  
19 preparing for confirmation.

20 And at this time I would like to introduce two  
21 members of my family. First, my wife, Raquel Medina, who's here  
22 in the front row.

23 My sister Helen Picon.

24 I do want to correct the record in that I am not  
25 an attorney. I did graduate from Hastings Law School. I did  
26 supervise attorneys and law clerks at a public interest law firm  
27 for over 14 years, but I have never purported to be an attorney.

28 In regard to the Harvard Graduate School of

1 Business, I applied and was accepted, took the entrance exams  
2 for the Harvard Graduate School of Business without ever having  
3 gone to undergraduate school. I did complete the two-year  
4 program. You had to maintain higher than a B average, which I  
5 did not at that time, but I did complete the two-year program.

6 From that point, however, I went to San Francisco  
7 Community College, where I was Student Body President. I  
8 graduated from San Francisco State University with a BA in urban  
9 studies, and I earned my law degree at Hastings College of the  
10 Law.

11 I do have a knowledge of transportation which is  
12 not reflected in my resume because I had not prepared a resume  
13 for the Department of Transportation. I have over 25 years of  
14 public service. I served two terms on the Board of Permit  
15 Appeals in San Francisco, where I've dealt with demolition and  
16 construction permits, and as such, I know how important the  
17 permitting process is, the need to streamline the permitting  
18 process so that we can get projects out in a more timely  
19 fashion.

20 I also served under two mayors on the Police  
21 Commission. And as such, I'm very cognizant of the need for  
22 public safety. I was very involved with the Triple A School  
23 Guard Program, and I know how important it is to be able to  
24 assure pedestrian safety.

25 As a member of the San Francisco Board of  
26 Supervisors, I sat on the Transportation Technology Committee,  
27 and we dealt with a number of transit and transportation related  
28 issues, all the way from the municipal railway, to BART, to the



1 San Francisco Airport.

2 I also sat as member of the San Francisco Public  
3 Transit Authority, where we were responsible for traffic  
4 management, congestion, street repaving, and all of the issues  
5 that have to do with transportation planning.

6 While a member of the San Francisco Board of  
7 Supervisors, I participated in the Peninsula League of Cities  
8 group. And again, we dealt with transportation issues affecting  
9 all of the counties and cities in the Peninsula. Of course, we  
10 discussed state highways, local streets and roads, the San  
11 Francisco and San Jose Airports, and many other transportation  
12 related issues.

13 I represented the Peninsula League of Cities on  
14 the California League of Cities. State committees, I was Chair  
15 of the Housing Community Economic Development Committee, and of  
16 course, there we dealt with housing, land use, and  
17 transportation. Together, we addressed transportation and  
18 transit issues. We proposed solutions, and we sent these to the  
19 Legislators to enact as public policy.

20 At the Annual State Convention, I was San  
21 Francisco's representative in consecutive years, and again cast  
22 the city's votes and participated in the policy discussions  
23 around statewide transportation issues.

24 I was active with the National Association of  
25 County Officials. I was Vice Chair of the National Steering  
26 Committee on Economic Development, Community Development and  
27 Housing. Again, as a member of NACO, together we addressed  
28 transportation issues on a national basis. Together we went to

1 Congress and lobbied for TEA 21, and also at that time for  
2 ISTEA, and lobbied for regional transportation projects in the  
3 San Francisco area.

4 While a member of the Board of Supervisors, I was  
5 very involved in the Red Light Running Program, in the setting  
6 up of cameras to prevent people from running red lights. Again,  
7 the street crossing, the crosswalk program.

8 I'm very excited to have been asked by the  
9 Governor to direct Caltrans. I think that this is in keeping  
10 with the Governor's need to establish close partnerships between  
11 the state and local and regional transportation authorities. My  
12 relationship with both CSAC and the League of Cities will serve  
13 me in good standing. Since I was appointed Director of  
14 Caltrans, I've met with them on numerous occasions in regard to  
15 transportation issues, and I will continue to meet with them on  
16 a regular basis.

17 In his budget, the Governor outlines two areas  
18 that are very important to his administration and which I know  
19 are important to yourselves. One is improving project delivery.  
20 The administration is committed to seeing highway resources  
21 translated into finished products as quickly as possible.  
22 Caltrans has developed significant improvements on its  
23 traditional mode of managing capital projects and estimating  
24 workload for capital outlay, design, and engineering.

25 Formerly, capital projects were directed by  
26 functional managers, each of whom controlled a portion of the  
27 project. For example, right-of-way acquisition, environmental  
28 engineering design.

1           To improve accountability and delivery, Caltrans  
2 has implemented a new approach in which functional managers  
3 report to one central project manager, responsible for the  
4 entire project from inception to completion.

5           With SB 45, the funding is now divided 25 percent  
6 for Caltrans, 75 percent for regional transportation  
7 authorities. Given that situation, it is incumbent upon  
8 Caltrans, in order to deliver projects more quickly and more  
9 effectively, to work in close collaboration with the regional  
10 transportation authorities, providing the technical assistance  
11 and any other necessary assistance so that we can move the  
12 projects quicker than has heretofore been the case.

13           The Governor also in his budget specifically  
14 highlights the protection of the transportation investment. And  
15 this is, if there's one area that I am committed to, it's to  
16 protect the transportation investment that we make.

17           We are blessed in California with having one of  
18 the outstanding transportation systems in the world. Yes, there  
19 are a number of areas that need addressing, and during my  
20 tenure, and following the leadership of Secretary Maria  
21 Contreras-Sweet, and the Governor, we will move swiftly and  
22 affirmatively to address those deficiencies.

23           Now, as Director of Caltrans, I am not going to  
24 criticize what the previous administration might have or might  
25 have not done. I think what's important is to recognize the  
26 areas that we've done well, and improve on those. And the areas  
27 where we have not done so well, to focus on those areas and to  
28 improve them.



1           We have a very good transportation mix in  
2 California, where our railways are important, our waterways are  
3 important, our airways are important, our highways are  
4 important. We have to maintain them in good working order, and  
5 we have to maximize them to the fullest extent so that our  
6 residents and our businesses can move about our highways  
7 efficiently, safely, and economically. I am committed to  
8 delivering the necessary mandate for Caltrans.

9           In certain areas I've already taken positive  
10 steps. For example, trucks carry 80 percent of goods in the  
11 State of California. So, I am -- I have taken affirmative steps  
12 to set up a Trucking Desk so that, together with the trucking  
13 industry, we can address issues of safety, and also do whatever  
14 is necessary to reduce down time for trucks, and to be able to  
15 move their cargo more effectively.

16           I had an opportunity to dedicate direct service  
17 from Sacramento to Bakersfield. So, I had an opportunity to  
18 meet with the President of Amtrak, to meet with the officers of  
19 Union Pacific, Burlington, Santa Fe, and I am committed to not  
20 only helping to improve the rail system in California, but also  
21 to foster a closer partnership between trucking and the railway  
22 industry, because I think they should be mutually supportive,  
23 the same way that we should encourage relationships and  
24 partnerships among the air service, the shipping industry, the  
25 rail industry, and the trucking industry. I am committed toward  
26 that end.

27           The Governor has also stated his commitment to  
28 diversity. And I want to see to it that we have equal

1 opportunity at Caltrans, that we launch an aggressive effort to  
2 make sure that we have a representative applicant pool, and to  
3 provide opportunity to residents of California.

4 I am confident that with the personnel that we  
5 have at Caltrans, the resources that have been given us, that we  
6 can do a lot to improve transportation and transit in  
7 California.

8 I myself am not an engineer, but I am smart  
9 enough to have taken two of the best engineers that Caltrans  
10 has: one in the person of Jim Roberts, the other in the person  
11 of Tony Harris. Together from day one, they have allowed me to  
12 keep Caltrans running without missing a step.

13 And we have a lot of other good, talented people  
14 both within Caltrans and without, and I am committed to putting  
15 together a good team so that together we can manage the state's  
16 resources wisely and effectively.

17 With that, I thank you for giving me this time.  
18 I'm open to any questions that you might have.

19 CHAIRMAN BURTON: Senator Perata, did you want to  
20 comment before we have questions?

21 SENATOR PERATA: Thank you, Mr. Chair.

22 Members, I'm just here to offer my support and my  
23 experience with Caltrans in the short time that I've been in the  
24 Legislature, but the long time that I've lived in California.

25 I have found over last three or four years that  
26 the organization has really gotten to be, if not top heavy,  
27 inert. Simple things that aggravate people such as myself, and  
28 I'm sure you, and certainly our constituents, was very difficult



1 to communicate to the top echelon of Caltrans. Why you'd close  
2 the lane in the middle of the day, for example, or an offramp on  
3 the Bay Bridge at nine o'clock in the morning, somebody says,  
4 "We thought the commute was over with."

5 I always thought that these guys were out there  
6 having orange cone practice, because there were cones all over  
7 the freeway, but there was nothing going on.

8 So, when I was dealing with that, it was just  
9 simple things like that that my constituents get very angry  
10 about. And it's simple things like that, when we put a bond on  
11 the ballot that people think about before they provide more  
12 money for infrastructure.

13 What really appeals to me about Mr. Medina is  
14 that he comes from that same experience. You don't have to be  
15 an engineer. In fact, maybe the best thing to happen right now  
16 is we don't have that mindset in a department that really needs  
17 to regenerate itself, and needs to be able to figure out how to  
18 attack the problems that we have today, and the ones that are  
19 going to get worse day by day.

20 It took nine years to rebuild the Cypress Freeway  
21 after the Loma Prieta Quake in Oakland. Nine years. And that  
22 was in part due to the fact that there was no administrative  
23 leadership to make sure that that project got done.

24 So, I think it's time to have somebody that has  
25 the experiences that Mr. Medina has mentioned, someone that  
26 understands that the job is to make the organization work, and  
27 to serve the interests of our constituents. This state cannot  
28 operate to its full economic potential unless our transportation

1 system gets better. And I believe it's time to bring somebody  
2 in from the bottom who's seen it the way we've seen it at local  
3 government, driving the streets and the highways of California,  
4 and asks the same question at the top that everybody asks at the  
5 bottom: What the hell's going on?

6 I urge your support for Mr. Medina.

7 CHAIRMAN BURTON: I've got one that's better than  
8 yours.

9 Representing Marin County, a lot of times I will  
10 come to Sacramento from Marin County. I used to come over  
11 Highway 37, and then I was told by Linda Graham, your staff  
12 person, that if you take the Richmond Expressway, you can  
13 definitely get there quicker and save 20 minutes, and you do  
14 that by going over the Richmond-San Rafael Bridge.

15 Well, right after you go over the Richmond-San  
16 Rafael Bridge, you are faced with a lot of decisions, none of  
17 which give you a clue as to what to do. And several times I  
18 ended up back at Golden Gate Field on my way to San Francisco.

19 [Laughter.]

20 CHAIRMAN BURTON: So, I called Caltrans and said,  
21 "You ought to have some signage there. If I can't find my way,  
22 what about tourists?"

23 And in two months, they are going to finally have  
24 signs. This has been a year project for me, and those who know  
25 me, I've been on it not for the public good, but for my own  
26 personal comfort. And it took that long to get signs up that  
27 just said, "This is the way to Sacramento," "That's the way to  
28 here," "That's the way to there."

1 I think one of the things that Senator Perata  
2 said, it is important. It's good to have people who represent  
3 constituents who complain about what's going on, as opposed to  
4 having somebody who is part of what's been going on and  
5 complaining.

6 I'm not going to give you credit for getting  
7 those signs up, but it did happen on your watch.

8 Senator Lewis.

9 SENATOR LEWIS: I'm tempted to advise you to come  
10 down and drive the Orange County freeways and hope you get lost;  
11 we might get more money down there.

12 Good morning, Mr. Medina. Going over your  
13 resume, you certainly have a very impressive and diverse resume,  
14 but for the most part, it's not in the area of transportation.

15 I guess my first question to you is, why do you  
16 think Governor Davis singled you out to head Caltrans?

17 MR. MEDINA: As I stated in my remarks, the  
18 Governor wants someone who is familiar with local government,  
19 and who can work in close cooperation with local government. In  
20 order to get the projects out faster we're going to need an  
21 effective working partnership with local government.

22 The Governor also wanted someone who had  
23 experience in public policy and being able to carry out public  
24 policy, and understanding the role of the manager. And given my  
25 many years in public service, the Governor had confidence in my  
26 ability to manage the work force at Caltrans to make efficient  
27 use of the resources that we have, and also to move Caltrans  
28 into the 21st Century.



1           The President talks about building a bridge to  
2 the 21st Century. At Caltrans, we're prepared to build a  
3 highway into the 21st Century.

4           SENATOR LEWIS: Since your ascension as Director,  
5 I'm sure you've had a million things on your plate. Have you  
6 ever had the opportunity to study any other state transportation  
7 systems, or have a major metropolitan area, to see if they're  
8 doing something different or better than we are?

9           MR. MEDINA: In fact, I have had many  
10 opportunities. I had an opportunity to go to New York City and  
11 discuss with the officials in New York City how they were able  
12 to turn their transit system around.

13           I had the same opportunity in Washington, D.C.,  
14 and Chicago, and Boston. I visited the project that they have  
15 underway in Boston.

16           So, I have had an opportunity to be aware of  
17 major transportation projects around the country.

18           At one time, New York City had one of the worst  
19 transit systems in the world. They turned it around. They had  
20 a number of transit authorities that operated separately. They  
21 brought them together, and they were able to achieve certain  
22 economies of scale, have a greater degree of control. Now their  
23 system is one of the cleanest, safest.

24           The same way for the Washington D.C. area. They  
25 were able to bring a lot of their transit agencies under one  
26 roof, under one authority.

27           So, I have had that opportunity.

28           SENATOR LEWIS: You mentioned Boston. I'm

1 intrigued by what they've been doing there. What did you learn?

2 MR. MEDINA: What I learned in Boston was good  
3 for Boston, not necessarily good for San Francisco. Some of the  
4 streetcars that San Francisco put on its street, the City of  
5 Boston had turned down because they did not meet  
6 specifications. They went through an extensive testing program  
7 prior to accepting delivery of the light rail streetcars, which  
8 San Francisco did not adequately do. Therefore, they were able  
9 to avert a lot of the problems that San Francisco had with its  
10 streetcars.

11 They are now putting a major thruway in the City  
12 of Boston. And so, I learned a lot about their right-of-way  
13 acquisition, the federal funding that they were able to obtain,  
14 the extensive effort that they mounted in regard to getting  
15 broad public support for that project. One of the most  
16 ambitious undertakings in the world.

17 SENATOR LEWIS: You're right about that.

18 In the Governor's budget, there is a \$1.5 billion  
19 reserve in the current year. What in your opinion is the  
20 optimal size for reserve?

21 MR. MEDINA: That's a policy question for the  
22 Governor to let me know what the proper reserve is.

23 SENATOR LEWIS: There have been no discussions  
24 between you and the Governor relative to --

25 MR. MEDINA: The Secretary and myself have been  
26 working in close collaboration to ensure that by getting our  
27 projects out in a more timely manner, that we will not have such  
28 a high cash reserve.



1           A lot of those moneys are already programmed.  
2   It's a matter of getting projects out quicker.

3           SENATOR LEWIS: My understanding is that one of  
4   the things that's being done right now at Caltrans is staffing  
5   up to try to figure out how to spend the money, get it into the  
6   pipeline as quickly as possible.

7           How many employees have been brought on recently,  
8   and what are your plans for the future?

9           MR. MEDINA: We're staffing up very specifically  
10   because we know that we have certain projects to get out. The  
11   moneys that we have, have been programmed. So, we need adequate  
12   staffing levels to gets those out.

13          We have given our over-all budget, we have  
14   approximately 20,000 personnel working for Caltrans.

15          SENATOR LEWIS: Are you still hiring?

16          MR. MEDINA: Caltrans is always hiring.

17          SENATOR LEWIS: Are you increasing the size of  
18   your work force?

19          MR. MEDINA: We are, yes, and that's again  
20   dependent on existing funding.

21          SENATOR LEWIS: At that point in time when you  
22   reach the optimal number to spend down the surplus funds, what  
23   do you do at that point in time when you might be over staffed?

24          MR. MEDINA: Again, our staffing is driven by the  
25   funding and the projects that we have to get out. When the  
26   funding goes down, and as the work load goes down, then  
27   organizationally you always needs to have a plan as to how to  
28   reduce your staffing levels.

1                   In a lot of cases, it's by attrition. In some  
2 cases, people will complete the work that they set out to do.  
3 That is something that our administrative department, our  
4 personnel department, has already taken into account and are  
5 prepared to reduce staff as needed.

6                   SENATOR LEWIS: In your opinion, first of all,  
7 realizing the State Supreme Court decision on contracting out,  
8 but also from your own personal opinion because of your labor  
9 background, I would be kind of interested, do you think that  
10 contracting out has any role to play at all in transportation  
11 projects?

12                  MR. MEDINA: I will abide by the California  
13 Supreme Court decision in regard to contracting out. And there  
14 are certain instances where the Court does permit the letting  
15 out of contracts. If it's work that the state has not  
16 previously done, if there are not sufficient -- for a given  
17 project in certain circumstances, the Court, on a case-by-case  
18 basis, will allow some contracting out. But I will abide by  
19 the California Supreme Court decision.

20                  SENATOR LEWIS: According to the State  
21 Controller, we now spend more money, \$3.7 billion, on mass  
22 transit than we do on local streets and roads. Apparently, San  
23 Francisco has the most successful mass transit system, but  
24 during peak hours about 20 percent of the people use it.

25                  Do you think it's appropriate that we spend over  
26 50 percent of those moneys to try to take care of 20 percent of  
27 the commuters' needs?

28                  MR. MEDINA: As I said previously, in California

1 we are blessed by having a good mix of transportation, a good  
2 mix of choices for the public.

3 At one time it was thought that highways were  
4 getting the bulk of the money, and that public transit was not  
5 getting a sufficient share of the money. Rail certainly has  
6 never been of the opinion that they have gotten their fair share  
7 of the money.

8 So, I think that based on public need and public  
9 demand, that the dollars do get apportioned accordingly. That's  
10 something that the Legislature is charged with doing. You're in  
11 touch with your constituents. They tell you where the money  
12 needs to be directed.

13 San Francisco, by statute, as a city and county,  
14 has always received its share of federal and state dollars. But  
15 certainly, given the ridership that San Francisco carries, there  
16 always exists a need for even increased funding. But that's a  
17 situation that we have faced in California for some time.

18 Funding is getting more adequate now, but we  
19 still have a lot of challenges in that area.

20 SENATOR LEWIS: In the last 15 years, the number  
21 of trips on mass transit statewide has pretty much remained a  
22 constant figure, in spite of the increase in population.

23 What does that tell you about the demand for mass  
24 transit in our state?

25 MR. MEDINA: I think that in spite of that, that  
26 the demand for mass transit has remained fairly constant and  
27 will continue to need support. A lot of people that do not  
28 drive cars, they rely on mass transit. I think that we have to



1 give it adequate funding. What adequate funding will be, will  
2 be decided by yourselves and the federal government, but I think  
3 that mass transit certainly merits our strong support.

4 SENATOR LEWIS: The California High Speed Rail  
5 Authority was created in 1996. I understand that it might go on  
6 the ballot in November of 2000. The project that's being  
7 contemplated might cost somewhere between \$23 and \$30 billion,  
8 which would make it the largest public works project in the  
9 history of the state. Can we afford that?

10 MR. MEDINA: Well, that's up to the voters to  
11 decide.

12 From Caltrans' perspective, we were very involved  
13 in the High Speed Rail Commission in providing technical  
14 support. They apparently have an advisory committee, and I will  
15 be taking the steps necessary to ensure that we participate on  
16 their advisory committee and that Caltrans retains a working  
17 relationship with High Speed Rail here in California.

18 But they are their own authority. They're  
19 empowered. They are their own attorney.

20 Because we are in the transportation business, I  
21 just want to make certain that we maintain a close working  
22 relationship with the High Speed Rail Authority.

23 SENATOR LEWIS: In terms of the capital costs  
24 that would be funded into that project and the ongoing cost on a  
25 year-to-year basis, what do you think the appropriate recovery  
26 percentage would be?

27 MR. MEDINA: Frankly, I know again that's a  
28 policy issue that's not within my purview to make, to give an

1 opinion on that, one way or the other.

2 SENATOR LEWIS: Do you think that number could  
3 ever be so low that it'd be worth deciding not to go forward?

4 MR. MEDINA: Again, that's up to the members of  
5 the High Speed Rail Authority and the Members of the Legislature  
6 to decide what is the proper amount there in that case.

7 SENATOR LEWIS: Thank you, Mr. Medina.

8 CHAIRMAN BURTON: Senator Knight.

9 SENATOR KNIGHT: Thank you, Mr. Chair.

10 Mr. Medina, just a question of interest. You  
11 said you weren't an attorney. You didn't take the Bar exam; is  
12 that it?

13 MR. MEDINA: I took the Bar. I did not pass  
14 it.

15 SENATOR KNIGHT: I was just curious.

16 You all have been talking about San Francisco,  
17 and there are other parts to this state, you know. There are  
18 other transportation needs within the state other than San  
19 Francisco.

20 CHAIRMAN BURTON: You're treading on very  
21 dangerous waters.

22 But anybody who flew faster than Chuck Yeager can  
23 be fearless.

24 SENATOR KNIGHT: You're right.

25 Anyway, we have some problems in other parts of  
26 the state, and in particular in the Antelope Valley. We have  
27 Highway 138 that connects the Antelope Valley with Highway 15,  
28 and is a significant commuter highway, and it's a two-lane



1 highway. It's called a death trap, Blood Alley, all kinds of  
2 appropriate adjectives defining that highway.

3 I would like some consideration for improving  
4 those kinds of highways in the state.

5 We have another one that's called 395. It goes  
6 north and south up to Mammoth. It presents similar problems.

7 What are your thoughts on some of those issues?

8 MR. MEDINA: Since you brought this issue to my  
9 attention, Senator, I assigned my staff to get me all of the  
10 relevant information on your area, which I will not go over with  
11 today. But I have urged them -- the projects that we have under  
12 way that are safety related projects, to see to it that we move  
13 them as quickly as we can.

14 In similar situations, I had a similar situation  
15 where the Assemblyman that represents the area between Morgan  
16 Hill and Gilroy, the supervisors, the mayors of Morgan Hill and  
17 Gilroy brought to my attention the number of head-on collisions  
18 that they have had in that portion of Highway 101 and the need  
19 for a barrier. And so, we moved ahead on the median barrier.  
20 More importantly, where our own people had told us it would take  
21 100 days to complete the median concrete barriers, by dividing  
22 the contract into two and getting them under way simultaneously,  
23 we were able to cut the delivery time from 100 days to 50 days,

24 So, we will take care to look at areas such as  
25 the ones that you've mentioned here to ensure that we complete  
26 the necessary construction to ensure safety, and that we do it,  
27 again, as expeditiously as possible. And we will continue to  
28 work with you in regard to these.

1           SENATOR KNIGHT: Has your staff suggested  
2 possible center barriers even on 138 in areas where it has been  
3 expanded to four lanes?

4           MR. MEDINA: If that is part of the solution, we  
5 can certainly explore that.

6           SENATOR KNIGHT: But I would assume that your  
7 people would understand safety implications and would make those  
8 recommendations on their own.

9           MR. MEDINA: I think our people are very capable,  
10 and in regard to any design, in regard to any construction, we  
11 would certainly meet with you in regard to those.

12          SENATOR KNIGHT: Thank you.

13          One other concern, HOV lanes. Sorry,  
14 Mr. Chairman.

15          But we've been working to expand Highway 14,  
16 which is a single link between the Antelope Valley and the L.A.  
17 basin. It's the only roads out of the Valley north and south.

18          They've chosen to put HOV lanes in some of the  
19 areas on Highway 14. You go for a stretch leaving Palmdale,  
20 then you get in an HOV lane. All of a sudden it quits. You go  
21 for three or four more miles, then you get on another section of  
22 HOV lanes, and pretty soon it quits.

23          They don't go anywhere. They don't do anything  
24 other than cause people to get in over another lane, and then  
25 there are only two or three cars over there, and you've taken up  
26 a whole lane.

27          I don't know what use those HOV lanes on 14 are.

28          MR. MEDINA: The federal government and other

1 transportation policy makers have designated HOV lanes as useful  
2 tools in relieving congestion and helping to improve air  
3 quality.

4 SENATOR KNIGHT: Recognizing that usefulness, if  
5 they go someplace. But putting a highway out here that has a  
6 beginning and an ending, and it doesn't do anything, it's kind  
7 of -- and as far as the federal government and their  
8 contribution to the construction of those, then, you know, why  
9 don't we tell them they're useless?

10 MR. MEDINA: That's not my place to do so,  
11 Senator. You can tell the federal government. That's certainly  
12 your place.

13 However, I have had discussions with the Chairs  
14 of the Senate Transportation Committee, Chair of the Assembly  
15 Transportation Committee, as well as the Commissioner for the  
16 Highway Patrol. And certainly, there are concerns in regard to  
17 the lack of uniformity. For HOV lanes in certain areas, HOV  
18 lanes operate 24 hours, on a 24-hour basis. On others, they  
19 operate in hours that may not coincide with peak use.

20 Certainly we need something more uniform, and I  
21 am prepared to work with the policy makers so that we can  
22 improve HOV lanes in the State of California.

23 SENATOR KNIGHT: Just one other item.

24 The high desert area is programmed to reach a  
25 million people within the next 10-12 years. That's where the  
26 growth is going to be.

27 I would hope that Caltrans is thinking about that  
28 kind of growth and those kinds of transportation problems that



1 are going to be caused by that growth, an additional highway out  
2 of the Valley.

3 When we had the earthquake, we were cut off. No  
4 way to get anywhere other than north.

5 So, a second highway out of the Valley, and  
6 improving the two lanes so that we can go east and west and  
7 north.

8 Thank you.

9 MR. MEDINA: Thank you, Senator.

10 CHAIRMAN BURTON: Follow-up question, Senator  
11 Lewis.

12 SENATOR LEWIS: Following up Senator Knight,  
13 talking about HOV lanes, it's my understanding that HOV lanes  
14 account for about 25 percent of the lanes, and yet seven percent  
15 of the usage. So it doesn't seem to be meeting the goals that  
16 the federal government seemed to think it would.

17 Would you support any kind of a study to  
18 determine whether or not HOV lanes are effective in doing what  
19 they are supposedly designed to do? If you would do that, if it  
20 turned out that at least some, if not all, of the HOV lanes were  
21 ineffective, would you be willing to petition the federal  
22 government to allow us to try to make them full-use  
23 lanes?

24 MR. MEDINA: Again, that's a policy question. I  
25 am prepared to work with both the Assembly and the Senate in  
26 reviewing HOV lanes.

27 Right now, a lot of the hours of operation, and  
28 how many persons can ride in the car on the HOV lanes, that's up

1 to local decision. So, there is a lack of uniformity.

2 Just based on my discussions with the Highway  
3 Patrol and the two leaders of the Transportation Committees,  
4 there is a need to review and to improve the current situation.  
5 I will follow their lead.

6 CHAIRMAN BURTON: Just following up on that,  
7 first of all, let me ask a question.

8 HOV lanes, are they mandated by the feds,  
9 encouraged by the feds?

10 MR. MEDINA: They are mandated by the federal  
11 government. If you construct new lanes, you have to have HOV  
12 lanes in the mix.

13 CHAIRMAN BURTON: In the mix. Do they tell you  
14 the hours?

15 MR. MEDINA: No, that's for local decision.

16 CHAIRMAN BURTON: So there's some flexibility?

17 MR. MEDINA: There is.

18 CHAIRMAN BURTON: Because, and I don't know if  
19 you noticed it, Jose, but on I-80, they used to have the HOV  
20 lanes were, I think, six to nine, and three to six, or four to  
21 seven, I think actually. Then something happened, and they were  
22 damn near all day. And it was supposedly part of the deal they  
23 made with Oakland when they did all that stuff, you know, around  
24 Emeryville, and going up towards Golden Gate Fields, going that  
25 way, and then coming from Golden Gate Fields to the Bridge going  
26 west.

27 A lot of us beefed about that, Members. So then  
28 they reduced it, but it's still kind of goofy. In other words,



1 the traffic patterns are kind of clear; the traffic is going  
2 I-80 west in the mornings and east in the evenings. They're  
3 commuting into the city and out of the city, or to Oakland. And  
4 out of Oakland going up to wherever they go, whether it's into  
5 Solano County.

6 So, we complained, and they reduced it somewhat.  
7 And I think it's now like three to seven, but it doesn't make  
8 any God damn sense.

9 I will drive home at three in the afternoon.  
10 There's a whole empty lane that nobody can use because they do  
11 not have three people in their cars, because that HOV west acts  
12 as if it was the high commute time.

13 I would think at some point, and I don't know if  
14 it's the locals or what, but at some point, I think the HOVs  
15 make sense in heavy commute times. In a non-heavy commute time,  
16 they don't.

17 That's why I think a study, and we could work on  
18 it, but to help you figure out, you know, when they work, when  
19 they're needed, and when they aren't. That's one.

20 Two, on the Highway 101 bottleneck going outside  
21 of Novato heading into Sonoma County, which has been a problem  
22 for years, it would be a tremendous environmental problem if  
23 they tried to cut into the hillsides on the outside, away from  
24 the center barriers.

25 But as you drive that, you can see several areas  
26 where they could actually, at least for periods of time, extend  
27 and end up with an extra lane going each way, going in towards  
28 the middle. Then there's some areas where it would again get

1 back to two. But it would be kind of like old Highway 37, where  
2 you had passing lanes, and then you didn't have passing lanes.

3 And I would hope that your people would look at  
4 that as really kind of a short-term solution to the problem of  
5 that 101 Corridor.

6 I mentioned it once, and the guy looked at me  
7 like I was nuts, so I drove by again and thought that maybe they  
8 could do it, maybe they couldn't, but they refused even to look  
9 at whether or not you could provide some extra laneage in pretty  
10 substantial portions heading up into Santa Rosa.

11 I realize fully the problems, as I said, if they  
12 tried to put an extra lane on the outside and cut into the  
13 mountains, then you're going to be in courts with the enviros.

14 I would encourage you to look at those two  
15 issues.

16 MR. MEDINA: We certainly will, Senator.

17 SENATOR BACA: Mr. Medina, I appreciate your  
18 background and your experience that you had. It seems like you  
19 have a lot of experience in policy management, and I think it's  
20 very important, especially as you look at the responsibilities  
21 that you have. I'm impressed with the experience that you had.

22 One of the questions that Senator Lewis asked,  
23 about the increase of work force, you know that it's very  
24 important to have the increase of work force because the  
25 population is going to increase, so the demand for  
26 transportation is going to be there; is that correct?

27 MR. MEDINA: That's correct.

28 SENATOR BACA: So, there is a need in terms of

1 the work force. I'm sure that in terms of evaluation, that  
2 you'll have an opportunity, as you grow with the  
3 responsibilities of being the Director, that you'll be able to  
4 assess and evaluate based on what projects, or priorities, or  
5 areas need to be. So, at that time, then I believe that you can  
6 come back with recommendations, whether you need to continue  
7 with the work force, whether you continue with the projects,  
8 which could be a cost savings I'm sure that you'll analyze and  
9 present back to us; is that correct?

10 MR. MEDINA: We certainly will do that, Senator.

11 SENATOR BACA: One of the other things, and I do  
12 appreciate that you're responsive to a lot of the concerns. I  
13 notice that even our supervisor from our area has written a  
14 letter and you responded, in the Inland Empire.

15 I'm glad that Senator Knight mentioned that there  
16 were other areas, other than the northern portion, because we do  
17 have projects in our immediate area. Hopefully, somewhere along  
18 the line, Mr. Medina, you could look at, as we're looking at the  
19 Route 30 in our immediate area, that hopefully completion of  
20 that, and in dealing with the problems that we're going to have  
21 as we look at the population doubling from 30 to about 60-some  
22 million in the future, we have a lot of the trucking industry  
23 that will be in the Inland Empire. And hopefully, you can look  
24 at and study that too, as well as a study on how we deal with  
25 transportation, meeting the demands and the needs in that area.

26 Will you please look at that?

27 MR. MEDINA: We certainly will, Senator.

28 SENATOR BACA: One of the things that I'd like



1 you to look at as Director, there are so many freeways that are  
2 being built, and highways that are being done. And part of the  
3 problem has been how they're constructed as well. Sometimes,  
4 there's no offramp. There's only offramps to one area, so  
5 another segment of the community, such as my area -- we're in  
6 what we consider the barrio -- in that area there's no offramps  
7 in that area, so all the businesses went into one end of the  
8 town.

9           Hopefully, future studies, you can look at  
10 particular projects that you have offramps to both sides, not  
11 just to one end of the town, which I think is very important.  
12 Hopefully, you'll look at that in the future as well.

13           MR. MEDINA: We certainly will, Senator. That's  
14 been brought to my attention in regard to sound walls in a  
15 similar situation.

16           SENATOR BACA: Just one final question.

17           I know that under the past administration, it was  
18 reported there's been a high administrative cost.

19           Have you had chance to learn why the cost has  
20 been so high in the past? Are you looking at ways to reduce  
21 administrative costs? Most of it has been in administrative  
22 costs, not in projects.

23           MR. MEDINA: You have to look at all of the  
24 areas, Senator, to make sure that you make the most effective  
25 use of the moneys that you have. That's certainly something  
26 that I'm committed to, and I'm working with my staff.

27           SENATOR BACA: I appreciate you looking into  
28 that. Thank you very much.

1 CHAIRMAN BURTON: Senator Hughes.

2 SENATOR HUGHES: Hello, Mr. Medina. I'm glad to  
3 see you today.

4 I'm really in agreement with Senator Burton on  
5 the fact that you need to look at the HOV, and how it differs  
6 from one part of the state to another. Not only the hours,  
7 which he talked about. You know, it says you use the Diamond  
8 Lanes during certain hours in certain places. And it's hard to  
9 read the hours when you're driving.

10 And the other thing that concerns me, Senator  
11 Burton, have you noticed, and I know it's where you drive all  
12 the time around 80, sometimes it says, "two people in a  
13 vehicle," and others say "three in a vehicle."

14 So, there's got to be some kind of consistency.  
15 How do you expect the people to read the fine prints and see, if  
16 it's this hour, should I have two people in the vehicle, or  
17 should I have three?

18 CHAIRMAN BURTON: I do use that excuse when the  
19 Highway Patrol stops me.

20 [Laughter.]

21 SENATOR HUGHES: No, but it's hard to even read  
22 it, whether it's two or three.

23 And how do you even teach driver's ed? How do  
24 people know?

25 It should be some sort of consistency. Do you  
26 have some plans? It depends on whether you're driving in  
27 Northern California or Southern California, or San Jose, or on  
28 the road to Oakland. It's weird that we don't have any



1 standardization, and how do you expect people to really know?

2                   People want to live within the law. They want to  
3 do the right thing. But if it's inconsistent, are you going to  
4 try to rectify that?

5                   MR. MEDINA: Again, I will be working with both  
6 the Senate and Assembly Transportation Committees in regard to  
7 this issue, and also with the local transportation authorities  
8 to make sure that we have some consistency and uniformity in  
9 regard to HOV lanes.

10                  SENATOR HUGHES: Thank you, and I think we should  
11 alert people who are teaching driver's education that our  
12 driver's education is not consistent.

13                  MR. MEDINA: Yes, thank you.

14                  SENATOR BACA: Mr. Chair, I move the  
15 confirmation.

16                  CHAIRMAN BURTON: Let's have witnesses in support  
17 briefly.

18                  MR. GONZALES: Senator Burton and Members of the  
19 Committee, I'm neither an engineer nor an attorney, but I am Ron  
20 Gonzales, the Mayor of San Jose, the largest city in Northern  
21 California.

22                  I do want to just tell you that I've traveled  
23 from San Jose to support this confirmation. And tell you that  
24 as a long-time friend of Jose Medina's and a colleague, I'm  
25 personally here to tell you that I trust this man and trust his  
26 abilities to lead the improvement of our state's infrastructure,  
27 whether it is be the roads, the rail, or other means in terms of  
28 air transportation.

1 I'm also pleased to bring with me letters of  
2 support from a number of our business leaders in Silicon Valley.  
3 They include: Lew Platt, the Chairman, President and CEO of the  
4 Hewlett Packard Company, which is the largest employer in  
5 Silicon Valley; Leslee Coleman, the Executive Director of the  
6 American Electronics Association for Bay Area; Wade Randlett,  
7 Political Director of the Technology Network; Ruben Barrales,  
8 President and CEO of Joint Venture: Silicon Valley; and Carl  
9 Guardino, President of the Silicon Valley Manufacturing Group.

10 All of these people are people that Mr. Medina  
11 will work with, along with mayors and county supervisors, in our  
12 community as we try to improve our infrastructure in our  
13 community and continue to meet the needs of our employers that  
14 help drive the economy of the State of California.

15 Thank you, Mr. Chair.

16 CHAIRMAN BURTON: Thank you very much,  
17 Mr. Mayor.

18 Just name, organization, and the fact that you  
19 support, please.

20 MS. BARAJAS: Good morning. My name is Griselda  
21 Barajas. I'm with the Sacramento Hispanic Chamber of Commerce  
22 and Vice President of Business Advocacy.

23 We are here in support of Jose Medina.

24 MR. RUEDA: Good morning, Mr. Chairman and  
25 Members of the Committee. I am John Rueda. I'm here  
26 representing the California Hispanic Chambers of Commerce. We  
27 have over 50 member Chambers and over 25,000 Latino business  
28 owners.

1                   We support confirmation of Mr. Medina as Director  
2 of Caltrans. Thank you.

3                   MR. COHEN: Good morning, Mr. Chairman and  
4 Senators. My name is Paul Cohen. I am here on behalf of  
5 Northern California Carpenters. We've worked closely with  
6 Mr. Medina on a number of public policy issues in San Francisco.

7                   We strongly support his confirmation and look  
8 forward to working with him on issues of importance to all  
9 Californians.

10                  If I might, Mr. Chairman, on a personal note, as  
11 you know, I have the privilege of serving as Vice Mayor of San  
12 Rafael. And speaking personally and on behalf of my  
13 constituents, I look forward very much to working with the  
14 Department of Transportation headed up by someone who brings to  
15 the table the kind of experience with local government that  
16 Mr. Medina will.

17                  CHAIRMAN BURTON: Thanks, Paul.

18                  MR. ARANGO: Good morning, Senator. I am Rolando  
19 Arango, President of the California Hispanic Professionals  
20 Association.

21                  We are honored and pleased to see someone that  
22 reflects who we are sitting in a position that Mr. Medina will  
23 be sitting. We are proud of Mr. Medina, and we thank Governor  
24 Davis for appointing him. And we'll be very pleased and  
25 grateful to you when you put Mr. Medina, representing all of us  
26 Californians.

27                  Thank you.

28                  MR. VILLAREAL: Good morning, Mr. Chairman,



1 distinguished Committee Members. My name is Massey Villareal.  
2 I'm the Chairman of the Board of the United States Hispanic  
3 Chamber of Commerce, based in Washington, D.C., representing  
4 one-quarter million Hispanic businesses in this county.

5 I'm here to endorse the confirmation of  
6 Mr. Medina. Thank you very much.

7 MR. ACKERMAN: Mr. Chairman and Members, Dave  
8 Ackerman, representing the California Chamber of Commerce and  
9 the Associated General Contractors.

10 We've spent considerable time with Mr. Medina,  
11 and I'm pleased to endorse his confirmation before your  
12 Committee. Thank you.

13 MR. SPAHN: Mr. Chairman and Members, Les Spahn  
14 on behalf of the National Railroad Passenger Corporation, better  
15 known as Amtrak. Its Chairman of the Board, Governor Tommy  
16 Thompson of Wisconsin, its Vice Chairman, former Governor of  
17 Massachusetts, Michael Dukakas.

18 Amtrak strongly supports Mr. Medina's  
19 confirmation as a strong policy for rail in the State of  
20 California. Thank you.

21 MR. SMITH: Mr. Chair and Members, D. J. Smith,  
22 representing Transportation California, which is a coalition of  
23 transportation contractors that build the transportation  
24 projects and the construction trade unions who work on them.

25 We also represent four self-help counties in the  
26 state: Contra Costa, Santa Clara, Riverside, and San  
27 Bernardino.

28 We are in strong support of Jose's nomination.

1 We worked with him extensively in the time that he's been  
2 appointed in the job. We think he's put together a very good  
3 team around him to get us moving again.

4 Thank you.

5 SENATOR BACA: D.J., those were from the Inland  
6 Empire; right.

7 MR. HARD: Good morning, Mr. Chairman and  
8 Members. My name is Jim Hard. I've been a state employee for  
9 24 years. I am the Civil Service Division Director for  
10 California State Employees Association, SEIU Local 1000. We  
11 represent 80,000 state workers, thousands of them at Caltrans.

12 We are here to endorse Mr. Medina's confirmation.  
13 Thank you very much.

14 CHAIRMAN BURTON: Good to see you out of your  
15 T-shirt.

16 [Laughter.]

17 MS. GUTIERREZ-GARZA: Hello. My name is Irene  
18 Gutierrez-Garza. I represent the Southern California Region of  
19 CAFE.

20 And living in the Southern California, we want to  
21 be able to express our strong support for Mr. Medina. Thank  
22 you.

23 MR. CREMINS: Good morning. Tim Cremins of the  
24 Operating Engineers in full support also.

25 We represent the maintenance division within  
26 Caltrans, and also we are signatory to some of the largest road  
27 builders in the state, and we're in full support. Thank you.

28 MR. DIAZ: My name's Marshall Diaz. I'm from



1 Los Angeles. I'm part of also CAFE de California, and deal with  
2 all the issues in Southern California dealing with our  
3 membership in Caltrans.

4 I also represent two other nonprofit  
5 organizations, Proyecto del Barrio, which is the largest Latino  
6 organization in the San Fernando Valley, and also Senso del  
7 Pueblo at Echo Park.

8 I'm also the Chair of the L.A. County-City Latino  
9 Redistricting Coalition. I'm not speaking on behalf of them. I  
10 just want to let you know that I am the Chair of that coalition.  
11 We do have members of that coalition that are supporting the  
12 confirmation of Mr. Medina. That includes the City Employees'  
13 Latino Association, the County. We have about 20 organizations  
14 that individuals will be supporting Mr. Medina.

15 So, we would like so see a unanimous Aye vote for  
16 his confirmation. Thank you.

17 MR. ORTEGA: Thank you. My name is Sam Ortega.  
18 I'm the President of Apollo Marketing. I'm also the  
19 Vice-President of the California Mexican-American Veterans  
20 Memorial.

21 we have one report card on Mr. Medina, and as  
22 such, we wholeheartedly endorse him. He gets good marks from  
23 us. Thank you.

24 MR. LIRA: Good morning, distinguished Members,  
25 Mr. Chairman. My name is John Lira. I serve on the  
26 Telecommunications Commission of San Francisco. I also run my  
27 own software company.

28 I'm here to encourage my support for our

1 Supervisor, Jose Medina. He'll be great for California and also  
2 great for the Latino community. Thank you.

3 MR. PERNELL: Good morning, Mr. Chairman,  
4 Members. My name is Robert Pernell. I represent the California  
5 State Council of Laborers. And we are in very strong support of  
6 the nomination.

7 Thank you.

8 MR. AQUINO: Good morning. My name is Carlos  
9 Aquino. I'm originally from the city of L.A., Los Angeles, now  
10 living in San Francisco. I'm involved with several  
11 organizations in Ambiente, which is a Latino HIV prevention  
12 program in San Francisco, and also the Democratic Club, Ambiente  
13 de Latino Democratic Club.

14 I'm here to show support for Jose Medina for  
15 Directs of Caltrans.

16 MS. FISCAL: Good morning, Senators. My name is  
17 Paula Fiscal. I'm a Commissioner in the City of San Francisco  
18 for the city-wide Alcoholism Advisory Board. And I am also here  
19 to encourage you to confirm this nomination of Jose Medina.

20 I myself have served with him on the Mission  
21 Council on Alcohol Abuse for the Spanish speaking. As a fellow  
22 board member, Jose is quiet yet always makes sound judgments.  
23 He is sometimes mistaken for being a little too quiet, but  
24 that's because he's put his data base in research.

25 So please, do confirm him as quickly as possible.  
26 We're very proud of him. Thank you.

27 MR. LOPEZ: Mr. Chairman and Committee Members,  
28 my name is oppose number Edmundo Lopez. I'm here on behalf of

1 the Hispanic Contractors Association, a statewide organization,  
2 and on behalf of the Mexican-American Business and Professionals  
3 in San Diego.

4 We believe strongly that Mr. Medina will do an  
5 outstanding job for California and its citizens, and we strongly  
6 support his confirmation. Thank you very much.

7 MR. HEMBY: Mr. Chairman, Bill Hemby with the  
8 California Organization of Police and Sheriffs.

9 We support Mr. Medina's confirmation. Thank  
10 you.

11 MR. CHAVEZ: My name is Floyd Chavez. I'm  
12 representing the Northern California Latin Business Association.

13 We are in strong support of Mr. Medina and his  
14 appointment.

15 MR. GUERRERO: My name is Paul Guerrero. I'm  
16 representing the California Small Business Alliance.

17 We are strong support of Mr. Medina.

18 MS. LaCOME: Good morning. I'm Diana LaCome. I  
19 represent the National Concilio of America and our California  
20 affiliates.

21 We strongly support Mr. Medina.

22 MS. BAKER: Mr. Chairman, Members of the  
23 Committee, DeAnn Baker representing the California State  
24 Association of Counties.

25 we've found Mr. Medina to be very thoughtful and  
26 responsive, and we're in full support of his nomination and  
27 confirmation.

28 MS. FOOMAN: Good morning. I'm Natasha Fooman,



1 representing the League of California Cities. The League of  
2 California Cities is in very strong support of the Governor's  
3 appointment to Mr. Jose Medina as Caltrans Director.

4 We've had first experience with Mr. Medina as a  
5 previous representative of the League. And his strong  
6 leadership and his ability is to work very closely and on  
7 important issues for public policy under local government has  
8 pointed a very -- has brought a big asset for the League.

9 Therefore, our President has appointed him as  
10 Chair of our committee prior to him being appointed as Caltrans  
11 Director.

12 CHAIRMAN BURTON: You're in support?

13 MS. FOOMAN: Yes, thanks.

14 MR. MCKAY: Good morning. My name's Robert  
15 McKay. I'm President of American Indian State Employees of  
16 California.

17 We've met with Mr. Medina, and we really support  
18 his confirming. Thank you.

19 MR. COPELAN: Good morning. My name is Craig  
20 Copelan. I'm President-elect of Professional Engineers in  
21 California Government.

22 We have met with Mr. Medina, and we're in strong  
23 support of his confirmation today. Thank you.

24 MR. GARCIA: Mr. Chairman, Members, thank you.  
25 I'm Bill Garcia, and I'm representing the American GI Forum,  
26 State of California.

27 Our Chairman is out of state. He had a death in  
28 the family or he would be here, Mr. Fred Coca. I'm the

1 Legislative Chairman for the American GI Forum, State of  
2 California.

3 We strongly support Mr. Medina. We've met with  
4 him. He has passed the test that we have. We're particularly  
5 impressed with his track record and his commitment to improving  
6 public transportation systems.

7 We have quite a number of veterans that live in  
8 the core cities across the State of California. They need mass  
9 transportation; they also need public transportation within the  
10 city. We have a lot of homeless veterans.

11 We are convinced that he would be good for this  
12 job. We ask your unanimous endorsement for his confirmation.

13 Thank you very much.

14 MR. SHAWNEEGO: Ben Shawneego, President of the  
15 National Indian Contractors. Although we're a national  
16 organization, our headquarters is in California, and we have  
17 many Indian contractors on roads.

18 And we certainly endorse Mr. Medina.

19 MR. MOLINA: My name is John Molina, with Labor  
20 Council for Latin American Advancement, also delegate to Central  
21 Labor Council, President of the Union label.

22 I'm here to endorse Jose Medina. I've known him  
23 for years. He's really the excellent choice of the Governor.  
24 Thank you.

25 MR. LEMMONS: I'm John Lemmons. I'm speaking on  
26 behalf of State CAFE. Their members emphatically support  
27 Mr. Medina.

28 MR. RAMIREZ: Good morning. My name is Frank



1 Ramirez. I'm the National Advisor to the American GI Forum.

2 We strongly endorse the confirmation of  
3 Mr. Medina, an outstanding man.

4 CHAIRMAN BURTON: Thank you.

5 MR. VELLANOWETH: Good morning, Senator Burton  
6 and distinguished Members.

7 My name is Roberto Vellanoweth. I'm here  
8 representing LULAC, the oldest Hispanic organization in the  
9 nation, and in total support of Mr. Medina's confirmation. We  
10 wish him well and know that he will be a great asset to the  
11 State of California and to the transportation business.

12 Thank you very much.

13 MR. ORTEGA: Ladies and gentlemen, I am Raul  
14 Ortega, Commander, Modesto Chapter, here to support  
15 Mr. Medina, and hopefully, we hire veterans.

16 Thank you.

17 CHAIRMAN BURTON: Quickly.

18 MS. SAMANSUETTI: Good morning. My name is Zelda  
19 Samansuetti, President of the American-Mexican War Mothers  
20 Organization of California.

21 We are here to support Mr. Medina very strongly.  
22 We need more men like him. God bless all of you.

23 CHAIRMAN BURTON: Thank you.

24 MR. DRUMHELLER: My name is Don Drumheller, past  
25 Department Commander for the American Legion, member of the  
26 National Organization of the American Legion.

27 And I'm here to support Mr. Medina, and hope he  
28 has a drawer full of Maalox and things that he's going to need.

1 MR. CAMACHO: My name is Julian Camacho. I'm  
2 here representing the Northern California 8A Association. It's  
3 an association of engineers and contractors throughout  
4 California.

5 We're very pleased to see Mr. Medina and your  
6 attention to his confirmation. Thank you.

7 CHAIRMAN BURTON: Good to see you, Julian.

8 MR. ASSAGAI: Mr. Chairman and Members, Mel  
9 Assagai, representing the California Trucking Association.

10 We are very strongly supportive of Mr. Medina.  
11 We think he'll do a wonderful job. Thank you.

12 MR. JACOBVITZ: I'm Robert Jacobvitz. I'm the  
13 Executive Director of the American Institute of Architects in  
14 San Francisco.

15 I've had the honor and --

16 CHAIRMAN BURTON: You're in support?

17 MR. JACOBVITZ: I'm in support as well as the  
18 state. Thank you.

19 MR. YBARRA: I don't get paid by the word, but  
20 you know our Caucus supports our member.

21 MS. VILLA: Good morning. My name is Maria Luisa  
22 Villa. I belong Comite Mexicano Civico Patriotico, San  
23 Francisco. And I said one thing, that when I put an eye on a  
24 person that had respect, integrity, and responsibility, that's  
25 Jose Medina.

26 Another person that I helped in politicians, I  
27 put a good eye, you know, on them, and they never fail. They  
28 always smart, responsible, and they always on top.

1 Thank you very much.

2 MR. ALDAPE: Mr. Chairman, I apologize for  
3 sitting and waiting, but I had a stroke a couple years ago.

4 CHAIRMAN BURTON: That's all right.

5 MR. ALDAPE: My name is Dave Aldape. I'm past  
6 Director of the Mission Coalition, an organization in San  
7 Francisco, and I'm with Mission Council on Alcoholic Abuse for  
8 the Spanish Speaking.

9 We are here in support of Jose Medina. Thank  
10 you.

11 MR. CASCIATO: Al Casciato, former President of  
12 the San Francisco Police Officers Association, representing  
13 Christopher Cuning, current President, San Francisco Police  
14 Officers Association.

15 We are in full support of Mr. Medina's  
16 confirmation.

17 CHAIRMAN BURTON: Any opposition.

18 SENATOR BACA: Mr. Chairman, I was just going to  
19 make a comment. I hope Mr. Medina isn't running for public  
20 office.

21 CHAIRMAN BURTON: Don't worry about it. He's not  
22 in your district; he's in mine.

23 [Laughter.]

24 CHAIRMAN BURTON: Senator Baca moves. Call the  
25 roll.

26 SECRETARY WEBB: Senator Baca.

27 SENATOR BACA: Aye.

28 SECRETARY WEBB: Baca Aye. Senator Hughes.

1 SENATOR HUGHES: Aye.

2 SECRETARY WEBB: Hughes Aye. Senator Knight.

3 SENATOR KNIGHT: Aye.

4 SECRETARY WEBB: Knight Aye. Senator Lewis.

5 SENATOR LEWIS: Aye.

6 SECRETARY WEBB: Lewis Aye. Senator Burton.

7 CHAIRMAN BURTON: Aye.

8 SECRETARY WEBB: Burton Aye. Five to zero.

9 CHAIRMAN BURTON: I think that you had a tough  
10 road, I think, coming in here. You answered the questions.

11 The thing that I believe won over some of the  
12 Members that may have had some questions is the fact that they  
13 understand that you are going to be responsive to the needs of  
14 their constituency, and it's not really bad to have somebody who  
15 has been involved in the political process to be on top of a  
16 bureaucracy, because we have as much as trouble with the  
17 bureaucrats as the citizens do.

18 And Jose, I want to congratulate you. You ought  
19 to be very proud of the unanimous vote and the support of all  
20 your friends and these people who came.

21 MR. MEDINA: Thank you, Mr. Chair.

22 [Thereupon this portion of the  
23 Senate Rules Committee hearing was  
24 terminated at approximately 12:02 P.M.]

25 --ooOoo--  
26  
27  
28




CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 25<sup>th</sup> day of March, 1999.

  
EVELYN J. MIZAK  
Shorthand Reporter







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APPEARANCESMEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR JOHN LEWIS, Vice Chair

SENATOR JOE BACA

SENATOR TERESA HUGHES

SENATOR WILLIAM KNIGHT

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

WADE TEASDALE, Consultant to SENATOR LEWIS

FELICE TANENBAUM, Consultant to SENATOR HUGHES

ANDY PUGNO, Consultant to SENATOR KNIGHT

MANNY HERNANDEZ, Consultant to SENATOR BACA

ALSO PRESENT

AILEEN C. ADAMS, Secretary  
State and Consumer Services Agency

SENATOR PATRICK JOHNSTON

CATHERINE FARMAN  
Rape Treatment Center  
UCLA Medical Center

SHARON ENGLISH  
Private Citizen

HARRY M. SNYDER  
Consumers Union

DONNE BROWNSEY  
California Nurses Association

DAN CURTIN  
California Conference of Carpenters



1 ART CARTER  
California Pipe Trades Council  
2 State Association of Electrical Workers

3 JOANNE McNAB  
4 Women's Appointment Project

5 LON S. HATAMIYA, Secretary  
6 Trade and Commerce Agency

7 SENATOR TIM LESLIE

8 SENATOR JOHN VASCONCELLOS

9 CHRIS MICHELI  
Semiconductor Equipment & Materials International  
10 Lockheed Martin Missiles and Space  
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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: The gubernatorial appointees, first one, Aileen Adams, Secretary, State and Consumer Services Agency.

SENATOR JOHNSTON: Thank you, Mr. Chairman and Members.

I wanted to introduce formally to you Aileen Adams, who has been appointed by the Governor as the Secretary of the State Consumer Services Agency. She is uniquely well qualified for this, as I think her background materials will indicate, as those of you who, perhaps, don't know her personally will learn in this hearing, and in the months and years ahead.

Her background on behalf of victims of crimes, and running a substantial federal program, as well as her services as Fire Commissioner in Los Angeles, Deputy City Attorney, involvement with dozens of nonprofit associations, and her intellect and energy will well serve the State of California.

Aileen and her husband, Geoff, were the owners of the Stockton Port, so I have first-hand knowledge of their capacity to bring home a winning team to Stockton, California, a farm club of the American League Milwaukee Brewers, Senator Lewis.

I present to you Aileen Adams.

MS. ADAMS: Good morning.

Can I make a brief opening remark?



1 CHAIRMAN BURTON: Certainly.

2 MS. ADAMS: I just want to begin by thanking  
3 Senator Johnston. I think no one has a higher batting average  
4 for his constituents than Senator Johnston. And I know he's  
5 supposed to be in three or four different places this morning,  
6 and I appreciate his taking the time to be here.

7 Let me just make a couple of brief remarks. I  
8 know you appreciate brevity.

9 I literally cannot imagine having a more  
10 wonderful job, and it's not because of the dazzling numbers that  
11 characterize our Agency, which has one of the broadest  
12 portfolios in government, with 15,000 employees, a \$1.3 billion  
13 operating budget, \$4 billion in procurement, \$22 billion in tax  
14 collection, and 12 departments that oversee civil rights  
15 enforcement and consumer protection, as well as recruiting state  
16 employees, collecting taxes, and building state offices.

17 It's not the impressive numbers that I think of  
18 when I think of the State Consumer Services Agency. It's  
19 people. People like the 80-year old disabled couple who can't  
20 continue to live in their own home because of shoddy work by a  
21 contractor who's indifferent to their declining health.

22 People like the African-American man, harassed  
23 every day at work, forced to see inflammatory racial epithets  
24 written on the walls that remained there literally for months.

25 Children like the 700 kids in South Central Los  
26 Angeles who are not able to attend a state-of-the-art science  
27 center school because of inexcusable bureaucratic delays, which  
28 Senator Hughes and I are working to remove.

1 Children who are not receiving needed therapy  
2 after their father's beaten their mother in their cowering  
3 presence.

4 Whether it's through the Fair Employment and  
5 Housing Department, Consumer Affairs, the Victim Compensation  
6 Program, the Office of Public School Construction in DGS, the  
7 Personnel Board, or any of our other departments, this is truly  
8 a job which, in very significant and fundamental ways, touches  
9 the lives of virtually every Californian.

10 My greatest challenge, and I'll conclude shortly,  
11 is to give our diverse customers, our tax payers, job  
12 applicants, crime victims, consumers, and businesses alike, a  
13 system that treats them fairly and one that really values their  
14 voice. In the many different jobs that I've held, every law  
15 that I've advocated for, every policy reform that I've  
16 initiated, each one had the same beginning: the voice of  
17 someone who had not been treated fairly by the system, the voice  
18 of someone who had the courage to come forward to take a stand.

19 I intend to open the doors of this Agency in  
20 every way that I can to these voices.

21 Finally, besides listening, I believe strongly in  
22 collaboration and coordination. Working closely with other  
23 governmental agencies, the private sector, and community groups  
24 helps to make government, I think, much more effective and  
25 efficient.

26 Going back to the baseball analogy, I will  
27 continually stress as a manager a team approach to problem  
28 solving, which most certainly includes Legislators.

1 I thank you for considering my nomination. I  
2 will always be grateful to the Governor for having the  
3 confidence in me to head the State and Consumer Services Agency,  
4 and I look forward to a very close working relationship with all  
5 of you, and hope that I can respond to your questions  
6 satisfactorily.

7 If I could take just one more moment, I would  
8 like to introduce my fabulous husband, who just flew in from Los  
9 Angeles. He's Geoffrey Cowan. He's Dean of the Annenberg School  
10 at USC. I know there's at least one Trojan on this panel, and  
11 one strong supporter of Trojans.

12 SENATOR BACA: We're not going to hold that  
13 against them. Some of us went to UCLA.

14 SENATOR JOHNSTON: You gain, one lose one.

15 MS. ADAMS: I guess I can share with you, since  
16 it's St. Patrick's Day, that Geoff is my true Shamrock, my  
17 four-leaf clover, and he's seated in the second row there.

18 CHAIRMAN BURTON: A couple questions. One is  
19 that under the last administration, whenever there was anything,  
20 any bills proposed for licensure of certain professions -- some  
21 of which are there to protect those in and make sure somebody  
22 else can't get in business, and the others are there to make  
23 sure that people that perform these services to the public are  
24 qualified to do it -- but in every event that I can recall, the  
25 Department of Consumer Affairs opposed them, reflecting, I  
26 guess, the philosophy of the Wilson administration, that no  
27 regulation and no licensure, I guess, was the best.

28 I would just hope that the Agency under you would



1 take a look at each individually. And if they have merit for  
2 the protection of the public, that you would look favorably upon  
3 them. And if they didn't, then you'd speak up.

4 But it was just a total philosophical opposition  
5 to any licensure, or requirements, or whatever.

6 Lastly for me, do you know what the status is of  
7 the Agency in the Y2K problem?

8 MS. ADAMS: Yes. All of the agencies and  
9 departments under me are meeting their guidelines in terms of  
10 Y2K compliance.

11 CHAIRMAN BURTON: They'll all be ready?

12 MS. ADAMS: We'll all be ready. That is a top  
13 priority of the Governor. We will all be ready.

14 CHAIRMAN BURTON: Senator Lewis.

15 MS. ADAMS: Good morning, Senator.

16 SENATOR LEWIS: Good morning, and good to see you  
17 again.

18 MS. ADAMS: Nice to see you.

19 SENATOR LEWIS: Senator Johnston hurt a little  
20 bit by mentioning the Milwaukee Brewers, but you did nicely with  
21 USC.

22 [Laughter.]

23 MS. ADAMS: We had the best win-loss record in  
24 all of professional baseball.

25 CHAIRMAN BURTON: I'd just like to say that I was  
26 raised in Milwaukee, and we had a Minor League team, the  
27 Milwaukee Brewers. And it wasn't until about ten years ago that  
28 it dawned on me what Brewers stood for. I swear to God, we just

1 grew up with the Brewers there. And finally it dawned on me it  
2 was for those who brew beer.

3 I thought I'd share that with everybody.

4 [Laughter.]

5 CHAIRMAN BURTON: Please continue, John.

6 SENATOR LEWIS: I will.

7 MS. ADAMS: This is a line of questioning I'm not  
8 prepared for.

9 SENATOR LEWIS: I did have a question. There's  
10 been at least a little bit of confusion, maybe most of the  
11 confusion's on my part, relative to the new administration's  
12 policy about directing business to union-only establishments.

13 Since you're the Secretary in charge of  
14 overseeing the Department of General Services, what's going to  
15 be your position relative to that as a policy, versus trying to  
16 get the most bang for taxpayers' dollars?

17 MS. ADAMS: I appreciate the question, and I know  
18 there is some confusion because of a memo that went out in  
19 another agency. And that memo has subsequently been clarified.

20 In the Department of General Services, our  
21 mandate is to follow the law, and we'll do that. But that also  
22 means certainly accepting bids, looking at bids from union  
23 contractors, but then determining who gets the bid based on the  
24 lowest estimate.

25 SENATOR LEWIS: Apparently there was a budget  
26 augmentation for creating some additional staff for the  
27 Franchise Tax Board, I think it was additional auditors in this  
28 year's proposed budget. But apparently that was despite there



1 was objections from the Franchise Tax Board. And also,  
2 apparently there was a prior audit, I believe by Deloitte  
3 Touche, that suggested they were over staffed to begin with.

4 What's your thought on all this?

5 MS. ADAMS: That's something that we're looking  
6 very closely at. That audit is interesting to read because  
7 basically it says that the Franchise Tax Board is doing a  
8 fantastic job in its core competencies.

9 But there are two areas of concern that we're  
10 looking at. One is the proposal to reduce supervisors vis-a-vis  
11 their employees, to reduce the span of control.

12 The other is to reduce the staff by about 417  
13 people.

14 We want to make sure, in looking at these  
15 proposals, and the Department of Finance is also looking very  
16 closely at this, since the Franchise Tax Board does generate 60  
17 percent of our budget, \$22 billion, we want to make sure that by  
18 reducing the numbers, we're not impacting the amount of revenue  
19 that's brought in for the state.

20 So, those two items in that report are especially  
21 under review at this time by our Agency and also by the  
22 Department of Finance.

23 SENATOR LEWIS: Lastly, what are your thoughts  
24 relative to the talk we have occasionally, or every year, about  
25 whether or not we should merge the Franchise Tax Board and Board  
26 of Equalization?

27 MS. ADAMS: That's something I know that's been a  
28 subject of study for a long time, including two Little Hoover

1 Commission reports, one in 1964 and one in the mid-80s.

2 From what I understand from those reports,  
3 there's been no indication that a merger would either save money  
4 or produce more revenue from the state.

5 But I think we should always be open to  
6 streamlining government. It's something I'm happy to take a  
7 look at. And it's very important to me to have a close working  
8 relationship with the Board of Control, Franchise Tax Board  
9 staff, and to represent their issues fairly and compellingly to  
10 the Governor.

11 SENATOR LEWIS: If there should be some kind of a  
12 merger, then whatever kind of new board is as a result of that,  
13 do you think they should be elected or appointed?

14 MS. ADAMS: I really couldn't respond to that at  
15 this time. That would be something that we would have to  
16 review, develop options on for the Governor, and he would make  
17 that policy decision.

18 CHAIRMAN BURTON: One question before Senator  
19 Hughes.

20 Where did the reduction of how many people at  
21 Franchise Tax --

22 MS. ADAMS: Four hundred seventeen.

23 CHAIRMAN BURTON: Who asked for that?

24 MS. ADAMS: The Franchise Tax Board.

25 CHAIRMAN BURTON: Who is the Franchise Tax Board?

26 MS. ADAMS: At the time -- it's now different;  
27 one different person.

28 CHAIRMAN BURTON: Andel and who else?

1 MS. ADAMS: It was Andel, Connell, and the head  
2 of the Department of Finance.

3 CHAIRMAN BURTON: So, what they would want to do  
4 is take the only money-making branch of government and reduce  
5 its ability to function?

6 MS. ADAMS: We're reviewing it, as I said, very  
7 closely, that proposal.

8 CHAIRMAN BURTON: I would think.

9 Senator Hughes.

10 MS. ADAMS: Good morning.

11 SENATOR HUGHES: Good morning. Thank you very  
12 much.

13 I think you and I have gotten to know each other  
14 fairly well over the last month or so, because I had a special  
15 situation that I was interested in, and if I might ask you to  
16 display to the Members how you approached this problem.

17 There was a space saver school that was designed  
18 for Exposition Park way back when I represented that district.  
19 It was some nine years ago that the plans were approved and the  
20 State Allocation Board allocated the money, and nothing moved.  
21 Nothing happened until I came to see you.

22 Would you please tell the Committee what the  
23 problem was, and what the problem is now, and some of the ways  
24 that we're seeking to solve it? It's just one small example of  
25 the complexity of becoming a Secretary of a large agency that  
26 has many departments under it.

27 MS. ADAMS: Well, as you get to know me better,  
28 you'll learn that I have no patience for bureaucracy. This



1 case, I think, was a very good example.

2 We have a state-of-the-art science center school  
3 that Teresa Hughes has worked very hard for the past nine years,  
4 and it's still not under construction. And the reason is,  
5 there's been a complete lack of coordination between the  
6 Superintendent of Schools. FEMA's involved because part of the  
7 project is a historic building that needs to be renovated.  
8 There are five or six different state and federal entities  
9 involved in this.

10 And when Senator Hughes brought this problem to  
11 me, I said, "Let's sit down. Let's get all the people together,  
12 set a time frame, set goals, and together figure out how we're  
13 going to move this project forward."

14 And that's exactly what we did two weeks ago in  
15 Los Angeles. We had the Superintendent of Schools there, the  
16 head of Public School Construction in DGS, representatives from  
17 other governmental agencies, and we set goals and time lines so  
18 that we can move this forward.

19 As part of this sloppy past process -- and this  
20 was the thing, I think, that irritated us the most -- the \$22  
21 million that had been set aside for this very important project,  
22 which one day will be a national model for the country, had been  
23 lost because the proper paperwork had not been filed. So, we're  
24 working very closely with Senator Hughes to make sure that that  
25 money's recouped, and that we get this project going.

26 SENATOR HUGHES: So, I have empathy for any  
27 Agency Secretary coming into power who has to clean up the mess  
28 that they are left with, and I appreciate you for that.

1 I'm going to ask you another question that may  
2 not be quite as easy for you to answer.

3 In the wake of 209, will the State Personnel  
4 Board continue to collect and publish data showing the ratios of  
5 women and minorities in State Civil Service? And what will you  
6 do about it, if anything?

7 MS. ADAMS: Proposition 209 has impacted the  
8 collection of statistics in the Department of General Services.

9 It has not impacted the practices in the  
10 Personnel Board. They continue to collect these important  
11 statistics. Each department under Civil Service statutes, which  
12 were upheld as being Constitutional in a court ruling, a  
13 Superior Court ruling, has an affirmative action officer. Those  
14 officers look at the hiring practices. They compare the  
15 statistics to those in the workforce to those relevant members  
16 of the workforce. If there're problems, they do set goals, and  
17 they continue to practice as they always have. That's under a  
18 court decision.

19 SENATOR HUGHES: All right.

20 Are you familiar with the State Auditor's 1997  
21 report criticizing the management practices of DFEH?

22 MS. ADAMS: Yes, I am.

23 SENATOR HUGHES: What steps are you taking to  
24 rectify?

25 MS. ADAMS: Steps have been taken to rectify the  
26 problems there, the greatest problem being that in 30 percent of  
27 their cases, they weren't meeting the 365-day timeline. That 30  
28 percent, because of increased funding, and staffing, and



1 reorganization, and increased effective use of computers, has  
2 now been reduced to one percent. And they've set up a three,  
3 six, nine program so that everybody who works on these cases has  
4 certain deadlines they have to meet. And their goal is actually  
5 not 365 days now, but 270 days to finish these cases.

6 I think they've made substantial progress.  
7 There's still more work that needs to be done there, and I will  
8 keep my eye very closely on it to make sure that those deadlines  
9 are met.

10 SENATOR HUGHES: Thank you.

11 CHAIRMAN BURTON: Senator Baca.

12 SENATOR BACA: Thank you.

13 Aileen, thank you very much for answering the  
14 last question, because that was one of the questions that I had.  
15 One of the concerns that we have is that when someone filed a  
16 complaint with the Fair Political Practices Commission, we'd  
17 like it to at least respond within 30 days, so I do appreciate  
18 the action that you're taking there.

19 One of the other questions that I'd like to  
20 follow up is on the State Personnel Board. The State Board is  
21 required to enforce the State Civil Service laws. These laws  
22 require employment decisions to be made on the basis of job  
23 qualifications.

24 What kind of effort do you make to ensure that  
25 all qualified candidates, and I state all qualified candidates,  
26 including minorities and women, are notified of job  
27 opportunities?

28 MS. ADAMS: I've discussed the importance of

1 outreach programs. And we're working with all departments to  
2 increase our outreach efforts. We've had programs already this  
3 year at 40 different state fairs.

4 We also need to identify populations that we're  
5 not reaching. For example, Hispanics. Latinos represent only  
6 about 20 percent, less than that actually, of the workforce. I  
7 think it's 18.2 percent of the workforce, and yet, they're 30  
8 percent or more of our population.

9 So, we need to target outreach programs to Latino  
10 events, to newspapers and magazines and media which will reach  
11 those populations. And I intend to be very active in ensuring  
12 that our outreach programs are effective.

13 SENATOR BACA: Thank you. I appreciate those  
14 efforts.

15 The other one is on contracting out. It'll be  
16 the opposite of what was asked by Senator Lewis.

17 Under previous administrations, private firms  
18 were contracted for building maintenance services.

19 MS. ADAMS: Right.

20 SENATOR BACA: Do you plan to use outside  
21 contractors for maintenance services that are the responsibility  
22 of the Department of General Services, or what are your plans  
23 here?

24 MS. ADAMS: As you know, General Services is in  
25 charge of janitorial services in state buildings. Today, they  
26 respond in three different ways. They sometimes use permanent  
27 state employees, Civil Service employees. Sometimes they use  
28 permanent-intermittent employees. And other times they use

1 contract employees. They contract out.

2 I have asked the head of the Department of  
3 General Services to review these practices, which in the past  
4 few years has tended to be more in the contracting out area, and  
5 to present us with options that we can take to the Governor to  
6 review.

7 SENATOR BACA: Thank you.

8 CHAIRMAN BURTON: Senator Knight.

9 SENATOR KNIGHT: Thank you, Mr. Chairman.

10 Aileen, you had mentioned before the fact that  
11 you didn't have much patience for bureaucracies.

12 MS. ADAMS: Not when they get in the way of a  
13 school and other things happening.

14 SENATOR KNIGHT: Could you elaborate on that a  
15 little bit, since you have oversight of some of the biggest  
16 bureaucracies in the state?

17 MS. ADAMS: I guess, you know, because of my lack  
18 of patience, and the school was a good example, I just tend to  
19 be very hands-on. I get on the phone and call the person myself  
20 and say, "Why isn't this happening?" You know, and I expect  
21 them to be accountable.

22 And I also will really emphasize bringing people  
23 together. I think one of the greatest problems that I've seen  
24 in government is, the left hand doesn't talk with the right  
25 hand. You know, we see that in the Capitol Development  
26 Project. There's a lot of concern. It's been expressed at two  
27 legislative hearings about the greening of the Capitol  
28 Development Project, which is a \$400 million project that's



1 going to affect all of us.

2 Well, these issues should have been discussed at  
3 the beginning, you know. The Department of General Services, in  
4 my opinion, should have been meeting with the Energy Commission  
5 and the Waste Management Board, and the other people who have a  
6 point of view. It's not that they would all agree, but these  
7 other agencies have ideas and resources.

8 And I really do think that we should try, to the  
9 extent that we can in government, to function as a team. I  
10 think it cuts down on the bureaucracy.

11 CHAIRMAN BURTON: Just a comment on what you  
12 said about the GSA and Capitol Development.

13 We had a project in San Francisco where they  
14 re-built the bridge I know. We had to seismically retrofit the  
15 old State Building and totally re-build the annex. And they  
16 paid no attention, the GSA paid absolutely no attention to the  
17 local community, to anything else. And only by virtue of the  
18 fact that I got involved, and at that time the Speaker was  
19 running for Mayor that he decided to get involved because it was  
20 of great concern to the community, were we able to force them  
21 into a less intrusive design to take care of wind tunnel  
22 problems, to get a little bit more open space in the design, not  
23 on the ground, and do certain things.

24 And basically, if whatever agency it is was  
25 forced to deal with people at the beginning, like you say, they  
26 don't necessarily have to follow the input, but if they get the  
27 input, then it's just a lot easier.

28 MS. ADAMS: Exactly.

1 CHAIRMAN BURTON: We literally had to threaten  
2 them with pulling the funds back to make them do certain things.  
3 And that really would not have happened without the support of  
4 the Speaker at that time, who would not have been that forceful,  
5 in my judgement, were he not looking elsewhere, because it was  
6 in my district, and it was a concern to me. It wasn't of that  
7 much concern to him until my district became all part of his  
8 domain. So, I think that that's very helpful.

9 MS. ADAMS: The East End Project, we've been very  
10 fortunate to have Senator Johnston so involved and really  
11 playing a leadership role in that. And I think because of his  
12 leadership, it will be everything that we want it to be.

13 CHAIRMAN BURTON: One that we can all be proud  
14 of.

15 As long as we're in the projects, how about that  
16 Franchise Tax Building? Are we for that or against it?

17 SENATOR JOHNSTON: We're for that.

18 CHAIRMAN BURTON: Okay. We expect to see that  
19 happen. And we don't expect to see those people over there  
20 messing around with it. We can send that message back.

21 SENATOR JOHNSTON: Chairman Klehs will take care  
22 of it.

23 SENATOR HUGHES I'd like to move it.

24 CHAIRMAN BURTON: Moved by Senator Hughes.

25 Could we have a show of hands of the people in  
26 support? Is anybody compelled to comment? You're compelled to  
27 comment?

28 MS. FARMAN: I am, your Honor.



1 Mr. Chairman and Members, I'll move quickly.

2 Mr. Chairman and Members of the Committee, I'm Catherine Farman,  
3 and I've been asked to appear here on behalf of the Rape  
4 Treatment Center at UCLA Medical Center, Santa Monica Hospital.

5 The Rape Treatment Center is pleased to support  
6 the nomination --

7 SENATOR BACA: What institution is that from?  
8 Is that from UCLA

9 [Laughter]

10 MS. FARMAN: Yes, UCLA Medical Center, both sides  
11 covered.

12 CHAIRMAN BURTON: That's why you're compelled to  
13 testify?

14 [Laughter.]

15 MS. FARMAN: Yes, I am. And I'm a UCLA grad, so  
16 I wanted to make sure UCLA was adequately represented here.

17 The Rape Treatment Center is pleased to support  
18 the nomination of Aileen Adams. Through her work at the Rape  
19 Treatment Center, and throughout her career, Aileen has shown  
20 herself to be a dedicated and gifted public servant.

21 Thank you.

22 CHAIRMAN BURTON: Why don't we just have  
23 everybody line up, give us the name of the organization and  
24 announce your support, please.

25 Let me just tell everybody a story. One time we  
26 had a nomination going through like this. And by the time  
27 everybody got through supporting her, somebody came in with a  
28 damning FBI report.

1 [Laughter.]

2 CHAIRMAN BURTON: Just a piece of history.

3 MS. ENGLISH: My name is Sharon English. I'm  
4 here as a private citizen. I do national training on crime  
5 victims, and I just want to vouch for Aileen's national  
6 reputation as being a hard worker, innovative, and somebody who  
7 brings people together. And I support her confirmation.

8 CHAIRMAN BURTON: Next, sir.

9 MR. SNYDER: Harry Snyder, Consumers Union.

10 We're pleased to have Aileen Adams as the next  
11 Secretary of State and Consumer Services, an organization that  
12 we work with often, and who is important in representing the  
13 average Californian in the Cabinet decisions of the Governor.

14 Good luck.

15 MS. BROWNSEY: Good morning. Donne Brownsey  
16 representing the California Nurses Association.

17 We're very pleased to be here today to support  
18 Aileen's confirmation, and know that she will be a true patient  
19 advocate.

20 Thank you.

21 MR. CURTIN: Senator, Members of the Committee,  
22 Danny Curtin. I'm with the FBI.

23 [Laughter.]

24 MR. CURTIN: The California Conference of  
25 Carpenters, we obviously want to add our support and hope you  
26 will move forward.

27 Thank you.

28 MR. CARTER: I tried to cut that guy off.

1 Art Carter with the California Pipe Trades  
2 Council and the State Association of Electrical Workers.  
3 Pleased to support.

4 MS. McNAB: Joanne McNab with the Women's  
5 Appointment Project. We strongly endorse Aileen's candidacy.

6 CHAIRMAN BURTON: Any opposition?

7 Moved by Senator Hughes. Call the roll.

8 SECRETARY WEBB: Senator Baca.

9 SENATOR BACA: Aye.

10 SECRETARY WEBB: Baca Aye. Senator Hughes.

11 SENATOR HUGHES: Aye.

12 SECRETARY WEBB: Hughes Aye. Senator Knight.

13 SENATOR KNIGHT: Aye.

14 SECRETARY WEBB: Knight Aye. Senator Lewis.

15 SENATOR LEWIS: Aye.

16 SECRETARY WEBB: Lewis Aye. Senator Burton.

17 CHAIRMAN BURTON: Aye.

18 SECRETARY WEBB: Burton Aye. Five to zero.

19 CHAIRMAN BURTON: Congratulations.

20 MS. ADAMS: Thank you very much. Thank you. I  
21 look forward to working with all of you.

22 CHAIRMAN BURTON: Lon Hatamiya, and Senators  
23 Leslie and Vasconcellos.

24 SENATOR LESLIE: Mr. Chairman and Members, it's a  
25 pleasure to be here today to introduce and recommend Lon  
26 Hatamiya for the position of Trade and Commerce Agency Secretary  
27 of California.

28 I think he asked me to introduce him because he's



1 from the Marysville area, which is in my district, or perhaps  
2 because you've seen fit to have me be Chairman of the Finance,  
3 Investment and International Trade Committee.

4 In the capacity of being Chairman of the  
5 Committee, I had a lengthy meeting with Lon and came away very  
6 impressed not only by his resume and his experience and  
7 background, which is extremely well suited for the position, but  
8 also his willingness to work with the Legislature, the  
9 Committee, Democrats and Republicans, to meet the goals of the  
10 Department and also of the Committee. So, I was very pleased to  
11 be able to come here and recommend him.

12 He has experience also, which is important to me,  
13 in the area of rural issues as well as urban. He understands  
14 rural California and urban California.

15 He's had extensive involvement at both the state  
16 level and at the national level. I'm relating specifically to  
17 the duties that will be required. I noted in the bio. that in  
18 the Clinton administration, he was responsible for administering  
19 a world-wide agency of nearly a thousand employees, including  
20 200 foreign service offices.

21 I'm very interested in the Offices of Trade for  
22 California, how we select them, are they doing their job well,  
23 qualifications of our representatives in those offices, and Lon  
24 is also interested in that and is involved in a full review of  
25 the operation to determine their value and where we should or  
26 should not have these offices.

27 So, all in all, I say he gets a way better than  
28 passing grade. There are a couple things that, in his past,

1 he's had involvement in that I'm not involved in, or wouldn't  
2 cause my support. For example, he also went to UCLA, while I  
3 went to USC, and he has been active in the Planned Parenthood  
4 Organization, but that certainly has nothing to do with the  
5 duties of this office, and I'm proud to recommend him for  
6 appointment.

7 CHAIRMAN BURTON: How about the fact he was on the  
8 Butte County Democratic Central Committee? Does that give you  
9 pause?

10 SENATOR LESLIE: But he ran against Bernie  
11 Richter.

12 [Laughter.]

13 CHAIRMAN BURTON: Senator Vasconcellos.

14 SENATOR VASCONCELLOS: Thank you.

15 Senators, I've known Lon Hatamiya for ten years.  
16 We won't find a more talented person of integrity to hold this  
17 job, no matter where we search. He's got credentials:  
18 undergrad, Harvard; law school, UCLA. He's worked in  
19 Washington. He's from the rural part of California and has a  
20 good mind, a good heart, and absolute integrity. You can trust  
21 him with your life and never, never blink twice.

22 I brought him last Friday to Silicon Valley for  
23 his first out-of-the-Capitol all day tour. We did 13 hours,  
24 non-stop meetings with high tech leaders, plant visits, ethnic  
25 minority chambers. And the best testimony of how he was that  
26 day, besides my own personal delight in seeing him show himself  
27 with respect and talent, was, KCBS interviewed him. The  
28 broadcast was, "Secretary Hatamiya came to the Silicon Valley



1 and made friends everywhere he went." When a man can do that in  
2 high tech, which is California's center of prosperity, he's a  
3 good Secretary candidate.

4 I urge your approval of him.

5 CHAIRMAN BURTON: Thank you.

6 Just a couple questions on the computer problem,  
7 Year 2000, are the departments under your Agency going to be  
8 pretty well ready to go, or any glitches you foresee in that?

9 MR. HATAMIYA: We are prepared to address all of  
10 the Y2K issues. I think as my colleague, Secretary Adams has  
11 stated, we're still under review, but I think we're well under  
12 way, and we'll meet the needs for 2000.

13 If I could, I have had a prepared statement that  
14 I'd like to address.

15 First of all, I'd like to thank Senator Leslie  
16 and Senator Vasconcellos, certainly two people I have great  
17 esteem and certainly respect for. I appreciate their support  
18 today, and it's really an honor to be before you.

19 Mr. Chairman and Members of the Senate Rules  
20 Committee, thank you again for the opportunity to appear before  
21 this distinguished Committee for consideration of my  
22 confirmation as Secretary of Trade and Commerce for the State of  
23 California.

24 Mr. Chairman and Members, let me also thank you  
25 for your fine leadership for our great state.

26 I'm sure that all of you would agree that there's  
27 no greater honor than public service. Let me assure you that in  
28 addition to appearing before you today, there is no greater

1 personal honor than to serve Governor Gray Davis and the people  
2 of my home state of California in this capacity.

3 If I may, I'd like to introduce my mother and  
4 father, Kashiwa and George Hatamiya of Marysville, and to thank  
5 them for their lifelong support and encouragement. And also my  
6 sister and her children, Jill, Sarah, and Sam Esser from San  
7 Francisco.

8 By the way, they live in your district, Senator.

9 Unfortunately and to my dismay, my wife Nancy,  
10 who many of you know from her previous service in the State  
11 Assembly as the Chief of Staff to John Vasconcellos, and my  
12 sons, John and George, could not be with me today, since they're  
13 finishing the school year in Washington, D.C. This is really to  
14 my dismay, because they're my strong backbone of support.  
15 Without the continued dedicated support and sacrifice of my wife  
16 and sons, I would not be able to be before you today. I do  
17 really want to thank them for that.

18 When Governor Davis invited me to join his  
19 Cabinet, I was humbled by the tremendous opportunity to help  
20 lead the world's seventh largest economy into the 21st Century.  
21 In this role, I will have the enormous challenge of creating and  
22 retaining jobs, implementing new economic development  
23 strategies, working with the diverse industry clusters that  
24 stretch across the various regions of this state, and meeting  
25 the needs of the increasingly global marketplace.

26 However, with the support of the Governor, the  
27 State Legislature, and the many stakeholders and constituencies  
28 we serve, I believe that I am best prepared to meet these

1 challenges and lead the Trade and Commerce Agency into the next  
2 millennium.

3 I will best meet these challenges by relying upon  
4 my professional experiences. Having worked in the private  
5 sector for both large and are small corporations, having worked  
6 in the public sector, administering large federal agencies, and  
7 having negotiated major international trade agreements in  
8 numerous venues, including Asia, Latin America, the European  
9 Union, Mexico, Canada, and the World Trade Organization, gives  
10 me the appropriate background to address the diverse issues that  
11 face the Trade and Commerce Agency.

12 I have begun my tenure, as Senator Vasconcellos  
13 has mentioned, by engaging in a thorough review of the Agency's  
14 programs, personnel, offices, and organization. I have also  
15 spent the last eight weeks traveling across the state in an  
16 ongoing effort to solicit input and recommendations from as many  
17 people, businesses and organizations as possible impacted by the  
18 delivery of our programs. My interest lies solely in  
19 determining what works well at Trade and Commerce, and how we  
20 can improve our effectiveness, efficiency, and responsiveness.  
21 I will depend upon the dedicated career public servants in the  
22 Agency to assist me in this vital process.

23 I shall look to you and your fellow Members of  
24 the State Legislature to provide the necessary guidance and  
25 expertise as I engage in the Agency's review. Once I have  
26 completed the comprehensive review, I will analyze my findings  
27 and make recommendations to the Governor and to the Legislature  
28 where improvements are needed and where changes can and should



1 be made.

2                   However, taking the lead of the findings of the  
3 Economic Strategy Panel, the evaluative process will continue as  
4 we attempt to make state government more flexible, agile,  
5 customer-driven, facilitative, decentralized and networked.

6                   The scope and purview of the Trade and Commerce  
7 Agency is broad, and it is the one state agency whose programs  
8 transcend foreign borders. Therefore, you have my full  
9 commitment to build upon a public-private partnership to ensure  
10 that California continues to be a leader in the global economy  
11 of the 21st Century.

12                   I humbly seek your support so we can work  
13 together to improve the quality of live for all Californians,  
14 and achieve sustainable economic growth.

15                   Let me thank you once again for the honor to  
16 appear before you today.

17                   CHAIRMAN BURTON: Senator Lewis.

18                   SENATOR LEWIS: Good morning, Mr. Secretary.

19                   In your capacity, working at the USDA, I was  
20 wondering now that you've been working at this for a couple of  
21 months, what kind of programs or things of the US government  
22 that you're particularly familiar with in terms of increasing  
23 trade, what kind of things did you learn there might you bring  
24 with you to your position here now?

25                   MR. HATAMIYA: I think, as Senator Leslie said in  
26 my introduction, I had the great honor of overseeing the Foreign  
27 Agricultural Service at USDA, overseeing the nearly 80 foreign  
28 offices around the world.

1           One of the things that we can do at the state is  
2 really tap into the resources of those offices and embassies. I  
3 think one of the critical mistakes we've made is not take  
4 advantage of the advocacy and really the sales people that we  
5 have in those embassies to represent California. So, I'd like  
6 to take the nine offices we currently have, to work more jointly  
7 with the US offices, the Trade Development Offices in many of  
8 those countries, to assist California.

9           California is the largest exporting state in the  
10 country. As I mentioned, we're the seventh largest economy. I  
11 told John and many of his constituents on Friday, I'd like to  
12 make it the sixth largest economy in the world.

13           So, I think we can build upon the programs I  
14 administered at the federal level, also work with some of the  
15 colleagues that I developed there, to make our programs work  
16 better not only in the state, but world-wide.

17           SENATOR LEWIS: With regard to the Trade Offices,  
18 the nine that we have and the four additional ones that have  
19 been approved, in terms of assessing the relative value of each,  
20 is there a particular Trade Office that we might presently have,  
21 versus a country or region that we don't have right now, that  
22 you might want to be looking at?

23           MR. HATAMIYA: That's an assessment we're making  
24 now, whether the nine offices are in the most appropriate  
25 locations they need to be for long-term benefits to the State of  
26 California.

27           Naturally, we're already part of Latin America,  
28 California, because of our shared culture, history, language.



1 We're also part of the Pacific Rim.

2 In my tenure, I'd like to take a focus, both at  
3 Latin America and the Pacific Rim. I know the Governor's trip  
4 about a month ago to Mexico is the first step in that direction.  
5 I had the great pleasure of accompanying him there. And I think  
6 we can rebuild our opportunities in Mexico and other countries  
7 in South America.

8 But I think we can focus in and do a better job  
9 than we have in the past.

10 SENATOR LEWIS: Thanks.

11 CHAIRMAN BURTON: Senator Hughes.

12 SENATOR HUGHES: Thank you very much. It's nice  
13 seeing you again.

14 I had one of the best airplane trips from Los  
15 Angeles to Sacramento riding with you, so I've asked you a lot  
16 of questions and gotten to know you better.

17 I am very, very impressed by your extensive  
18 experience and your broad range of knowledge in this area.

19 I'd like to know, in your opinion, do you think  
20 there is a need no expand and financially enhance California's  
21 Small Business Loan Guaranty Program? What are your plans for  
22 small businesses?

23 MR. HATAMIYA: Senator Hughes, it's a very good  
24 question.

25 Previously, being a small business owner myself,  
26 I'm very committed to ensuring that the best services are  
27 provided.

28 But I also am realistic. We are dealing with

1 finite resources at the state level, and that's one of the  
2 reasons for my extensive review of the programs that I oversee,  
3 to ensure that we're maximizing our efforts in the utilization  
4 of those state resources, but to see where we can refocus them.

5 As I mentioned, the Economic Strategy Panel has  
6 put forth recommendations, looking at various industry and  
7 regional clusters.

8 I think we need to better focus the efforts we  
9 have in the Agency, and one of my priorities is small and medium  
10 sized businesses, both in the rural and urban areas. I think  
11 that there's an untapped opportunity for us to expand exporting  
12 from those, from that segment. And I will focus in on that, and  
13 you have my commitment to do that.

14 SENATOR HUGHES: Thank you.

15 What steps, if any, will your Agency or its  
16 representatives make to implement an innovative and strategic  
17 approach to ensure that the newly combined Infrastructure and  
18 Economic Development Bank will support both infrastructure  
19 projects and private sector economic development?

20 MR. HATAMIYA: I've currently instructed my staff  
21 to put together guidelines that can be standardized, that  
22 applicants to the Bank can utilize, of what priorities should be  
23 given for specific projects. We will focus in on where the need  
24 is the greatest.

25 Infrastructure development is far reaching in  
26 this state. We have need to focus in on assisting those that  
27 have no other alternative. With a full capitalization of that  
28 Bank, I think we have a tremendous opportunity to do that.

1                   SENATOR HUGHES: Thank you.

2                   CHAIRMAN BURTON: Senator Baca.

3                   SENATOR BACA: A little follow up and a little  
4 comment. First of all, I do appreciate the fact that you went  
5 with the Governor to Mexico, and that was one of the beginnings  
6 of opening relationships between Mexico and what needs to be  
7 done in reference to trade in that particular area.

8                   But as I look at international trade and  
9 investment, do you have any plans to strengthen the state's  
10 efforts to promote trade and to increase investment in  
11 California by foreign corporations?

12                  MR. HATAMIYA: Absolutely. I've already, in my  
13 eight-week tenure in the position, I've had the chance to meet  
14 with the Councilor Corps here in California. I want to work  
15 very closely with foreign investors to take a look at where we  
16 have opportunities in this state.

17                  I think we can open our doors. I'm going to  
18 utilize my international contacts to ensure also that we can  
19 reach out to many other countries, and we also put appropriately  
20 people into our foreign offices that really can be sales people,  
21 that can sell California as a destination for foreign  
22 investment, as well as sell our export products in those various  
23 regions of the world.

24                  So, I'm very committed to that and will build,  
25 hopefully build upon the experience I've had in the past.

26                  SENATOR BACA: Thank you.

27                  One other comment, I do appreciate your  
28 responding to Senator Hughes' question about the Small Business



1 Development Corporation, and the need to expand and look at  
2 rural areas like the Inland Empire and others that are growing  
3 communities. I'm glad you addressed that as well as an  
4 important need.

5 The other that I feel is very important is, I  
6 feel that a lot of business owners or managers have complained  
7 that they're not aware of the state programs offering financial  
8 assistance or technical assistance, or other services.

9 What do you plan to improve this awareness or  
10 communications with them?

11 MR. HATAMIYA: Well, again, I think that that is  
12 based upon education and outreach.

13 I concur with the previous confirmation hearing  
14 with Secretary Adams, we have to do a better job of outreach and  
15 education of those that can benefit from our programs. And  
16 that's why I'm going to take a look at the structure of our  
17 regional offices, the structure of our divisions within the  
18 Agency, to determine where we can better educate people.

19 With the eye-opening experience in Silicon Valley  
20 on Friday with Senator Vasconcellos, we have a tremendous  
21 opportunity to share information over the Internet, the  
22 Information Exchange Age is -- we're the leader in the State of  
23 California. So, the state should really take advantage of that,  
24 of how they can share that.

25 I talked with some small business leaders earlier  
26 this week, and they were mentioning, their membership, only 30  
27 percent has access to computers or access to the Internet. So,  
28 we need to build upon that opportunity as well as to better

1 educate.

2 Let me also end by saying that I'm very proud of  
3 my UCLA background. I have two degrees from UCLA.

4 [Laughter.]

5 SENATOR BACA: Thank you.

6 CHAIRMAN BURTON: Anybody here from Northern  
7 California.

8 [Laughter.]

9 MR. HATAMIYA: I grew up in Marysville, so I'm  
10 from Northern California. I just went to UCLA.

11 CHAIRMAN BURTON: Senator Knight.

12 SENATOR KNIGHT: Thank you, Mr. Chairman.

13 We have a talked a lot about foreign trade,  
14 tourism, the film industry, all of those things going on in  
15 California.

16 There's another industry. It has to do with  
17 space. It's a trillion dollar industry. California doesn't  
18 appear to be interested in securing any portion of that, because  
19 they don't appear to be competitive with the rest of the states  
20 around the country.

21 Other states are being extremely competitive.  
22 Florida has a MOU with the Kennedy Space Center to the tune of  
23 building facilities in support of the reuseable launch vehicles  
24 that are coming down the road that are going to be competitive  
25 with the space shuttle and others to reduce the cost of putting  
26 satellites into space and taking them out of space.

27 What are you planning to do in order to secure  
28 this kind of an industry, and to keep that industry in



1 California, and to bring it back? Because, we have lost some of  
2 those programs.

3 MR. HATAMIYA: Senator, I can say the State of  
4 California, as you well know better than anyone else, has been  
5 the leader in the aerospace industry. It's been a leader in  
6 many other segments as well: the high tech, agriculture, across  
7 the board.

8 That's one of the reasons I mentioned in my  
9 opening statement the emphasis and reliance upon the Economic  
10 Strategy Panel's recommendations, which take a look at regional  
11 and industry clusters.

12 One of the things I also mentioned is that I  
13 think my Agency has tried to spread itself too thin and tried to  
14 help too many different industry groups, and not help any of  
15 them too well.

16 And I'd like to refocus our efforts and refocus  
17 our resources, and again, emphasizing the fact that I realize we  
18 have finite resources, and try to emphasize the areas where we  
19 are strong. And aerospace is one of those. We have the built  
20 infrastructure already with the technology, with the personnel.

21 And I commit to you, I will do all I can to  
22 ensure that we refocus our efforts in that area.

23 I'll have to rely upon your efforts in the State  
24 Legislature, again, to give me the resources to do that, but I  
25 look forward to working with you to see where we can build on  
26 it.

27 It is difficult, and I agree with you, to compete  
28 with some of the packages that other states are putting

1 together, and I think we have to, again, do what we can with  
2 what we have.

3 SENATOR KNIGHT: Let me follow-up just a little  
4 bit in indicating what other states are doing compared to what  
5 California is doing.

6 California, within the Trade and Commerce  
7 Department, has established in certain cases Red Teams to  
8 support various businesses within the state. And they've  
9 relegated the positions to sub-directors, if you will, in  
10 various areas to take care of those problems.

11 In contrast, other state governors personally are  
12 calling our businesses and inviting them to come to their states  
13 to review the packages that they would like to put together to  
14 entice them to come.

15 That's the kind of disparity and level of  
16 involvement of the states.

17 CHAIRMAN BURTON: I think that the answer to that  
18 question eliminates the need for an Aerospace Select Committee.  
19 We've done it all.

20 Senator Vasconcellos wanted to make a closing.

21 SENATOR VASCONCELLOS: Just a final comment that  
22 Mexico has become our number one trading partner.

23 Beyond that, the entire Pacific Rim is the most  
24 wealthy market whose flu affects us, and contamination of  
25 market, and its counter-position, I think, gives us a leg up on  
26 other states.

27 Also, Lon will be the first Asian-American Agency  
28 Secretary in California history, and it's long overdue. He will

1 be a fine one.

2 CHAIRMAN BURTON: Witnesses in support.

3 MR. MICHELI: Madam [sic] Chair and Members,  
4 Chris Micheli with Carpenter Snodgrass, here on behalf of  
5 Semiconductor Equipment and Materials International, a 2,000  
6 member high tech trade association, headquartered in  
7 Mountainview, and also Lockheed Martin Missiles and Space.

8 Just in brief response on Senator Knight's  
9 comments, I'd also point out that Secretary Hatamiya, in early  
10 January, shortly after the swearing in, sat down with Lockheed  
11 Martin, reviewed the fact that the Governor had proposed in his  
12 budget a direction to focus on research and development and  
13 commercial space. And Secretary Hatamiya expressed great  
14 interest in that and has pursued efforts to learn more about  
15 those industries so that they can be promoted.

16 So, I think that the State of California will do  
17 a lot in the commercial space sector, and we look forward to  
18 working with him on it.

19 Thank you.

20 CHAIRMAN BURTON: Witnesses in opposition?

21 Hearing none, Senator Baca moves approval.

22 Call the roll.

23 SECRETARY WEBB: Senator Baca.

24 SENATOR BACA: Aye.

25 SECRETARY WEBB: Baca Aye. Senator Hughes.

26 SENATOR HUGHES: Aye.

27 SECRETARY WEBB: Hughes Aye. Senator Knight.

28 SENATOR KNIGHT: Aye.

1 SECRETARY WEBB: Knight Aye. Senator Lewis.

2 SENATOR LEWIS: Aye.

3 SECRETARY WEBB: Lewis Aye. Senator Burton.

4 CHAIRMAN BURTON: Aye.

5 SECRETARY WEBB: Burton Aye. Five to zero.

6 CHAIRMAN BURTON: Lon, congratulations.

7 MR. HATAMIYA: Thank you.

8 [Thereupon this portion of the

9 Senate Rules Committee hearing was

10 terminated at approximately 10:27 A.M.]

11 --ooOoo--




CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 18<sup>th</sup> day of March, 1999.

  
EVELYN J. MIZAK  
Shorthand Reporter





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APPEARANCESMEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR JOHN LEWIS, Vice Chair

SENATOR JOE BACA

SENATOR TERESA HUGHES

SENATOR WILLIAM KNIGHT

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

WADE TEASDALE, Consultant to SENATOR LEWIS

FELICE TANENBAUM, Consultant to SENATOR HUGHES

ANDY PUGNO, Consultant to SENATOR KNIGHT

MANNY HERNANDEZ, Consultant to SENATOR BACA

ALSO PRESENT

MARIA L. CONTRERAS-SWEET, Secretary  
Business, Transportation and Housing Agency

SENATOR RICHARD POLANCO

CHRISTINE MINNEHAN  
Western Center on Law and Poverty

MARC BROWN  
CRLA Foundation

ART CARTER  
California Pipe Trades Council

THOMAS SAYLES  
Semper Energy

CHUCK SUSZKO  
Professional Engineers in California Government



1 AARON READ  
California Association of Highway Patrolmen

2  
3 SENATOR CHUCK CALDERON

4 LARRY GOTTLIEB  
Kaufman and Broad Home Corporation

5 ROBERT PERNELL  
6 California State Council of Laborers

7 BOB ARNOLD  
8 California Credit Union League

9 SENATOR HILDA SOLIS

10 WILLIAM J. LYONS, JR., Secretary  
11 Department of Food and Agriculture

12 SENATOR STEVE PEACE

13 SENATOR JIM COSTA

14 BILL CAMP  
15 California Labor Federation, AFL-CIO

16 DEE DEE MOSEKIAN  
Women's Appointment Project, CDFA Task Force

17 KIRSTIN POWERS  
18 Agricultural Council of California

19 VALERIE NERA  
20 California Chamber of Commerce

21 STEPHEN MACOLA  
22 California Emergency Food Link

23 CATHY SCHMEEK  
National Audubon Society

24 DAN TERRY, President  
25 California Professional Fire Fighters

26 KAREN ROSS  
27 California Association of Winegrape Growers  
28





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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: First is Maria

Contreras-Sweet, Secretary of Business, Transportation and Housing.

Senator Polanco.

SENATOR POLANCO: Good morning, Mr. Chairman and Members.

It gives me great pleasure to introduce Governor Gray Davis' nominee, Maria Contreras, for the Secretary of Business, Housing, and Transportation.

Members, I have known this extraordinary woman for well over 15-20 years. She is an exceptional candidate for this position. She is widely recognized throughout the country as a pioneer woman in corporate America, as a pioneer entrepreneur, and as a dedicated community member who helped create, nurture, and strengthen the organizations that are involved with opportunities for all Californians.

Ms. Contreras-Sweet was the first woman officer of Westinghouse at the young age of 30. She served in that capacity between 1985 and 1990. From 1990 to '95, she was an equity partner in the 7-Up RC Bottling Company. She also served as the elected president, becoming the first woman to serve in that capacity of the California-Nevada Soft Drink Association.

Before her corporate career, Ms. Contreras-Sweet was a legislative chief of staff. She has continued her public commitments to include ongoing involvement in her later corporate life. In the area of health care, Members, she has

1 worked to improve health services for all Californians. She is  
2 a founding board member of the California Endowment and former  
3 director of the Blue Cross of California. Blue Cross, as you  
4 know, is the largest health care company in the state.

5 In promoting equal opportunity, she has  
6 demonstrated and distinguished herself as a leader. She served  
7 as an appointee to then-President Bush's Commission on the  
8 Federal Glass Ceiling, which studied the issues of equal  
9 opportunity. That Commission has created a landmark report  
10 providing the nation's history of promoting equal opportunities  
11 for all.

12 Finally, Members, let me point out that this is a  
13 very historic moment, not only for Maria Contreras-Sweet's  
14 career, but also for our community. She will serve in the  
15 history books of California as the first Latina to serve in the  
16 Governor's Cabinet. She has a place in history, but more  
17 important, she has a place in our hearts. She is a leader, a  
18 great role model. She will serve with great distinction, and it  
19 gives me great pleasure to present her to you, introducing her  
20 to you, and ask an affirmative vote of this body for her  
21 confirmation.

22 CHAIRMAN BURTON: Thank you, Senator.

23 MS. CONTRERAS-SWEET: Thank you, Mr. Chairman.

24 I'd like to begin by first thanking your entire  
25 Committee and your staff for their professionalism. I have to  
26 tell you that throughout the ushering of this process, I have  
27 received a great deal of professionalism from all of the  
28 Members, and as I said, your staff, in particular, Nettie



1   Sabelhaus. So, I wanted to thank you and compliment you for  
2   that.

3               I must share with you, however, that it is a  
4   distinct pleasure to be here before you for the reasons that  
5   Senator Polanco said, but also because as a woman who has gone  
6   through, again, the vast complex organizational structure of  
7   Westinghouse, middle-sized companies such as 7-Up, and trying to  
8   run my own business, starting up my own business, I have to tell  
9   you that it is a real pleasure to be at the other end, and to be  
10  able to offer solutions and direction and guidance from a person  
11  who's a real user of the policies that the state imposes on the  
12  business sector.

13             As well as being the President of HOPE, you all  
14  know that I helped to found an organization called HOPE, which  
15  stands for Hispanas Organized for Political Equality, and there  
16  I felt that I wanted to restore and increase and expand the  
17  opportunities for consumers. So, I think that I bring the  
18  multitude of perspectives that come from the business and the  
19  consumer standpoint.

20             Again I want to emphasize I do bring 18 years of  
21  management experience, working through Westinghouse, 7-Up, Blue  
22  Cross, and the community involvement work that I've done through  
23  the California Endowment, HOPE, United Way, a myriad of  
24  organizations that I've served on.

25             But I'm particularly impressed that I have  
26  received the confidence of the Governor of this administration  
27  when he asked me to serve in this position. You know that it is  
28  positioned this year to manage a budget around \$10 billion and

1 manage over 40,000 employees. To that end, we think that we're  
2 aptly prepared, and we think that we're going to bring a new  
3 vision to the Agency, and look forward to working with all of  
4 the Members here before me today, including the others in the  
5 rest of the houses.

6 Thank you.

7 CHAIRMAN BURTON: Questions, Members? Senator  
8 Lewis.

9 SENATOR LEWIS: Ms. Sweet, welcome.

10 It's a constant struggle for us in California to  
11 do what we can to make our state as competitive as possible. A  
12 few years ago we were really losing the battle, and losing lots  
13 of jobs to other states like Nevada, Arizona, Texas, et cetera.  
14 We took some steps that did help to make California more  
15 competitive, but I fear that maybe things might start to go in  
16 the other direction again.

17 What steps can you take, or what policies can you  
18 fight for to try to make it easier to expand or locate  
19 businesses in California?

20 MS. CONTRERAS-SWEET: What an excellent question,  
21 and I'm delighted to have it.

22 I have to tell that at first blush, one of the  
23 things that I felt was essential that I begin to do is to build  
24 a constant open line of communication between the Secretary of  
25 Trade and Commerce and our Agency. To that end, we traveled, as  
26 you may have heard, to Mexico together. And we found that there  
27 was a real synergy that was created in that Secretary Lon  
28 Hatamiya was able to talk to the businesses about the

1 opportunities and the availabilities here in California. And I  
2 was able to understand what the real barriers were for those  
3 businesses who had not come to California, or who had left  
4 California, and be able to address the efficiencies that we  
5 might be able to install for the oversight responsibilities that  
6 we bear with the private sector.

7           Let me just share another point on that that I  
8 thought you might be interested in hearing, and that is, there  
9 is a task that I was given that was not made public, but it's  
10 one that I take as seriously, and that is that the Governor  
11 asked me to work with Secretary Adams of the Consumer Services  
12 Agency to examine ways that we can streamline government, to  
13 examine innovations, and to install a system that would be more  
14 friendly in ways that would encourage companies to come to us,  
15 and not be overburdened by a complex labyrinth of regulations.

16           So, I think that you're going to see some nice  
17 thinking coming out of our agencies, that we will be able to  
18 bring to the rest of government, and again, to the end that  
19 you've identified as being so crucial.

20           SENATOR LEWIS: Switching topics all together,  
21 what are your thoughts, what have you learned so far about the  
22 whole controversy related to the Bay Bridge?

23           CHAIRMAN BURTON: Wait. Pardon me.

24           SENATOR POLANCO: On that note, Mr. Chairman,  
25 with all due respect.

26           MS. CONTRERAS-SWEET: Is there a controversy?

27                           [Laughter.]

28           SENATOR LEWIS: What are your thoughts about the



1 trade-off in terms of redesign for aesthetic purposes, or for  
2 relocation of the exact route for other reasons relative to  
3 something, costs that are going to be lost, maybe? Have you  
4 given some thought about what are price are you willing to pay  
5 to accommodate those that want that kind of a change?

6 MS. CONTRERAS-SWEET: Sure. I, again, appreciate  
7 the question. And just again to your earlier question, let me  
8 say that sometime ago, the battle was taken on. And that is  
9 that the regions should determine what their plans are. To that  
10 end, we understand that 75 percent of the funds now go to the  
11 regions. And while we have a role in examining the ways that we  
12 use our ITIP funds, the Interstate funds, we are allowing the  
13 local regions to make their policies.

14 Caltrans has no policy position. We're allowing  
15 local regions make their own, take their own positions on the  
16 way they want to go.

17 As it relates to aesthetic challenges, I do  
18 believe we need to bring beauty to projects, by the way. I  
19 don't know they have to always cost more. I think we can be  
20 more creative. And so, to that end, I've challenged Caltrans  
21 and Director Medina to examine ways.

22 You know, this is California, and I know that you  
23 appreciate when you travel throughout Europe and throughout the  
24 rest of the world, that it's a beautiful experience to travel  
25 through roads and to see historical buildings. They are an  
26 attraction.

27 I think we have to examine ways that we can make  
28 our roads, our walls, more beautiful, and see if there's ways

1 that we can do it efficiently without adding cost.

2 SENATOR LEWIS: Well, if there are cost overruns,  
3 who will ultimately bear the costs?

4 MS. CONTRERAS-SWEET: Again, I would have to  
5 examine. I think each case has to be taken on an individual  
6 basis.

7 But I don't think that always when we talk about  
8 adding aesthetic value that there are increased costs. If there  
9 are, you have to see -- you know, you have to take each case as  
10 it is and just see what value it really adds to the community.

11 SENATOR LEWIS: I've heard it said that if the  
12 project is delayed as much as a couple of years, the costs could  
13 go up anywhere from 50 to 100 million dollars.

14 Does that come out of the whole state highway  
15 project?

16 CHAIRMAN BURTON: Orange County flood subvention.

17 [Laughter.]

18 SENATOR LEWIS: That's already been taken care  
19 of.

20 CHAIRMAN BURTON: If I could, the bill that set  
21 up the funding mechanism, if you're talking about the Bay  
22 Bridge, that increased the tolls two dollars or an extra dollar  
23 on all of the Bay Area bridges, I think that legislation itself  
24 said, if in fact there were cost overruns -- and I'm not sure  
25 how that's defined -- that they would have to come back to the  
26 Legislature to figure whether we would continue to augment the  
27 tolls, or wherever it comes from.

28 I do not believe it could be an administrative



1 decision. I had somebody to the staff check that out. That's  
2 my thoughts.

3 We would have to decide whether to extend the  
4 tolls, whether to do something else, or whether to let the  
5 bridge fall. But it wouldn't be, I don't think, Senator, an  
6 administrative decision.

7 SENATOR LEWIS: Okay.

8 Last area of interest for me, what's your  
9 position on whether or not the cost of Hawkins vacancy  
10 de-control, for rent control purposes, the measure should be  
11 repealed? What is your position on whether or not there should  
12 be a statewide mobile home rent control?

13 MS. CONTRERAS-SWEET: I have to share with you  
14 that housing is an area that is very important to the Governor,  
15 to the point that he announced that we would be charged with  
16 chairing a Housing Task Force. So, we have not formulated any  
17 preliminary thoughts on any specific given position.

18 But we will be pulling together with Phil  
19 Angelides and with Lieutenant Governor Cruz Bustamonte a brain  
20 trust and a wonderful group of people who will be guiding us  
21 through many of the complex issues around housing.

22 SENATOR LEWIS: Thank you, Mr. Chairman.

23 CHAIRMAN BURTON: Senator Baca, then Senator  
24 Hughes.

25 SENATOR BACA: Thank you, Mr. Chairman.

26 Maria, could you please tell us what experience  
27 you've had in dealing with diversity, and what commitments will  
28 you make in either promoting a diverse workforce through your

1 Agency, since you have a big responsibility?

2 MS. CONTRERAS-SWEET: We do. You know, Senator,  
3 that one of the assignments that I had on a volunteer basis was  
4 working with the federal government on the Federal Glass Ceiling  
5 Commission. We found that there are many artificial barriers to  
6 helping women and minorities get to the top levels of private  
7 sector and government. We found that those barriers come in  
8 different ways. One, of course, is just the differential  
9 barrier. There's some just old vanilla prejudice that exists  
10 out there.

11 And then the second piece is the supply barrier,  
12 what we do with our academic institutions to make certain that  
13 the readiness of our workforce exists.

14 And third, that we break down any artificial  
15 barriers that exist in the hiring institutions. And so, I  
16 believe in performance-based hiring. And that is where we  
17 actually examine the real task and not put artificial  
18 requirements in people's qualifications, if you will, so that  
19 they can indeed, if they can do the job, and they've done it  
20 before in other places, why can't we bring them in and not build  
21 artificial standards and requirements to bringing people in.

22 So, I hope to employ some of those strategies.  
23 We are, of course, casting a wide, wide net throughout our  
24 Agency to make certain that we are pulling in geographic and all  
25 the different diversities that exist in our great state.

26 Also, we are going to be working with small  
27 businesses on procurement opportunities and making certain  
28 there, too, that we have mentoring opportunities that will allow

1 all people in small, medium businesses to have an opportunity to  
2 be mentored by some of the larger businesses, to make certain  
3 that they get an opportunity to grow and to learn, and to help  
4 this economy to move forward.

5 SENATOR BACA: Thank you.

6 I have another question. The need for greater  
7 support for housing, in the past few years, very few initiatives  
8 have been taken to provide affordable housing for California.  
9 What plans do you have to help millions of Californians who need  
10 affordable housing?

11 MS. CONTRERAS-SWEET: Again, I'm grateful for the  
12 question, because that is something that I come in with a  
13 passion for, Senator.

14 I have to tell you that personally, as I see it,  
15 we have four huge opportunities. One, of course, is home  
16 ownership. We rank, I think, the third lowest in the nation in  
17 terms of home ownership rate, and some of the reasons are  
18 obvious: land values are steep here. But then there's also  
19 been pent up funds in different resources that we think ought to  
20 be unleashed.

21 And so, home ownership will be a big program for  
22 us.

23 A second opportunity is the farmworker community,  
24 California's agricultural community, and I think we have to  
25 address that group.

26 In our urban communities, we have the plight of  
27 the homeless, and I think we have work with the federal  
28 government to see what opportunities we can develop in a



1 synergistic way to make certain that we address that piece.

2 And lastly, and just as important is, we want to  
3 work with the private sector to encourage building, and we want  
4 to work with them to really unleash opportunities there to make  
5 certain that we are doing everything that we can in the urban  
6 and suburban areas to grow the housing stock.

7 SENATOR BACA: One final question. I don't know  
8 if you've had an opportunity to look at it, but there's been  
9 studies that have been done by the University of North Carolina  
10 that pertain to the overhead costs.

11 Have you had an opportunity to look at that?  
12 Apparently, it says that California has spent an excessive  
13 amount of dollars on administrative costs versus in some of the  
14 other areas.

15 I don't know if you've had an opportunity, but  
16 please look at That as well.

17 MS. CONTRERAS-SWEET: Senator, I had heard about  
18 that early on as I stepped into my position. It was of concern  
19 to me.

20 I have met with Caltrans on this subject. Now,  
21 we will be taking into consideration the different variances  
22 that were really not as thoroughly examined in that report. And  
23 that is that California highways are much more complex. So, I'm  
24 trying to examine whether or not it's an apple-to-apple  
25 comparison. What I mean by that is that many highways in other  
26 states are one-lane, two-lane, and ours are three, four, five,  
27 and six lane freeways, and even wider in certain areas. So  
28 clearly, we have a more complex system.

1 I just am trying to examine what the real  
2 comparisons were. And if we are deficient, we will look at what  
3 the cultural problems are within the Department, and how can we  
4 remedy them to make certain that we're more effective.

5 We have to make certain that project delivery is  
6 an imperative. And so, what we want to do is make certain that  
7 we are using talent in a way that gets us to that end.

8 There's some challenges at different levels.  
9 Some of them are with the local regions. Now that we have, as I  
10 stated earlier, allocated 75 percent of the resources to the  
11 local regions, some of the challenge is that the regions were  
12 not in all places in the state adequately prepared to assume  
13 that large responsibility. So, we're examining ways that we can  
14 mentor with the regions to also make certain that the local  
15 regions are meeting their deadlines.

16 SENATOR BACA: Thank you.

17 CHAIRMAN BURTON: Senator Hughes.

18 SENATOR HUGHES: Madame Secretary, how do you  
19 feel about the Governor's moving the regulation of the HMOs out  
20 of the Department of Corporations, and how do you think it will  
21 work? Will it be better or worse for the HMOs?

22 MS. CONTRERAS-SWEET: Excellent question. I have  
23 to share with you that this is an area that gave me some pause,  
24 because again, I think every one of us in this room probably has  
25 a personal anecdotal comment to make about their experience with  
26 their HMO. So, we all have, if you will, some expertise around  
27 this issue.

28 I care about that very much, Senator. And I must



1 tell you that the Governor gave us three very important bases to  
2 work from. One is to restore the physician's primacy. Secondly  
3 is to allow the consumer, the actual patient, to have a second  
4 independent review. And third is to make certain that we hold  
5 those accountable for their decisions.

6 On that point, I feel that it is an axiom. It is  
7 a super important point for us to make certain that we have an  
8 independent focus on health care. So, I was delighted to hear  
9 that the Governor made this a priority. It was something that  
10 he and I discussed at length during my interview. And I was  
11 delighted that he made such a strong commitment.

12 I support the commitment and feel that if we have  
13 an independent department that is solely focused on health  
14 managed care, that we will be able to give it the kind of  
15 attention that it deserves. And so, I was very supportive, and  
16 it was one of the attractive points in our interview.

17 SENATOR HUGHES: Thank you.

18 I'd like to move the nomination.

19 CHAIRMAN BURTON: How about I get a shot here.

20 That would be an independent department under  
21 Health and Human Services? Never mind.

22 There's a couple questions. You probably haven't  
23 had a chance to deal with this, but there's been a long time  
24 controversy in the state dealing with whether or not plastic  
25 pipes create a toxic and potential, I guess with a small "p" or  
26 big "P", poison problem to the people that are drinking the  
27 fluid that runs through them. And there's been controversy back  
28 and forth.

1           There was a quick study done by the Wilson  
2 administration. There was then a lawsuit. Then both parties  
3 agreed to delay the trial until basically the beginning of next  
4 year, that would give time for this administration and the  
5 Legislature an opportunity to look into it.

6           I wouldn't ask you to respond now, except to  
7 commit to have somebody on your staff look into the past history  
8 of this and maybe meet with those on both sides of the issue so  
9 You can get up to date, and we can have the benefit of your  
10 counsel on that.

11           On the issue of homelessness, I don't think we  
12 can wait for the federal government. I am not sure what we can  
13 do, but I would strongly hope that you and, you know, through  
14 the Governor, or the Governor through you, would create a task  
15 force on homelessness to see how we can deal with the issue.

16           You know, you've got the problems of those who  
17 lived somewhere last week, lost their job, missed a rent  
18 payment; they're living in their car or out in the street.

19           You have those that have been unemployed for  
20 quite awhile and are out on the street, or those who were  
21 veterans.

22           Those that are still floating around from the  
23 closure of the mental hospitals back in the '70s.

24           And then you have people that, even when I was  
25 growing up, there were always some that were literally out on  
26 the street.

27           I think we have to find some way incrementally to  
28 do things. I don't know what they are. Some people think that

1 having some form of dormitories is demeaning because people  
2 don't have privacy. It's not for me to say, but having lived in  
3 college dorms and Army barracks beat the hell out of being  
4 outdoors in the rain and snow.

5 I would just hope that you could put together a  
6 task force with a variety of groups -- business people, homeless  
7 advocates, nonprofit groups, church groups -- to see what we can  
8 do. Because it affects everybody.

9 In our city, no one likes to see the homeless by  
10 Civic Center, so we moved them out of there. Then they're in my  
11 mother's neighborhood; she doesn't want to see them, so they  
12 move them to the park. People don't want to see them in the  
13 park, and it's a round table. Unless they can figure out a way  
14 to ship them all to the Farralon Islands, the citizenry would  
15 not be happy. That's not the solution because the sea gulls out  
16 there could possibly become unhappy.

17 So, I would hope that would really be a top  
18 priority because it affects everybody whether they're homeless  
19 or not because no one likes to see it, either because they don't  
20 like the human tragedy, or because they're just personally  
21 offended by the sight.

22 But it's something that we have to address, and  
23 we're not going to solve it totally. I don't think we can wait  
24 for the feds, but if we come up with some innovative programs, I  
25 think there might be funding there.

26 Lastly, Senator Alarcon and I are proposing a  
27 housing bond in an amount that maybe too large for what the  
28 Governor's thinking. We're working with the builders, the



1 first-time home ownership, and use of what they call the  
2 so-called silent second that would help eliminate the down  
3 payment problem, that more people can afford the mortgage but  
4 can't afford the down payment, so they're stuck. Moneys to go  
5 for senior citizen and disabled housing, which we find is very  
6 popular because very few seniors and disabled get involved as  
7 perpetrators of gangs and drive-by shootings. Code enforcement  
8 in local communities.

9 We will get you this package as it works out, but  
10 a variety of groups, from the do-gooder groups to the people who  
11 make money building homes, are very supportive of this. I would  
12 hope that the Governor, after you get a chance to look at it,  
13 would do it.

14 I would ask first of all, why don't you introduce  
15 members of your family here?

16 MS. CONTRERAS-SWEET: I have to tell you that my  
17 children are in school, and so I just thought it would not be a  
18 good example to pull them out.

19 [Laughter.]

20 CHAIRMAN BURTON: It's all right with us. The  
21 Governor would yank your confirmation, probably.

22 [Laughter.]

23 MS. CONTRERAS-SWEET: I did invite my husband,  
24 Ray Sweet.

25 CHAIRMAN BURTON: Witnesses in support: name,  
26 organization, and support.

27 MS. MINNEHAN: Yes, sir.

28 Christine Minnehan. It is our inestimable

1 pleasure to support the nomination of Maria Contreras-Sweet.

2 Western Center on Law and Poverty in full support.

3 Thank you.

4 MR. BROWN: Marc Brown, CRLA Foundation, one of  
5 the do-gooder groups in support.

6 MR. CARTER: Art Carter, California Pipe Trades  
7 Council in support.

8 MR. SAYLES: Thomas Sayles, Semper Energy, former  
9 Secretary of Business, Transportation and Housing in full  
10 support.

11 MR. SUSZKO: Chuck Suszko, Professional Engineers  
12 in California Government. Full support.

13 MR. READ: Mr. Chairman, Members, Aaron Read  
14 representing the California Association of Highway Patrolmen in  
15 full support.

16 SENATOR CALDERON: Senator Burton, Chuck  
17 Calderon, private citizen, urging your full support.

18 MR. GOTTLIEB: Mr. Chairman, Larry Gottlieb with  
19 the Kaufman and Broad Home Corporation.

20 As America's largest home builder, we have a keen  
21 interest in seeing positive policies, the kinds that you  
22 described, that Senator Baca inquired into. And we have full  
23 confidence that the Governor has found the person who can  
24 deliver those things.

25 MR. PERNELL: Mr. Chairman and Members, Robert  
26 Pernell, representing the State Council of Laborers. We're in  
27 full support.

28 MR. ARNOLD: Mr. Chairman, Bob Arnold, California



1 Credit Union League. As consumer representatives, we offer our  
2 full support.

3 CHAIRMAN BURTON: Senator Solis for a few  
4 comments.

5 SENATOR SOLIS: Yes, just to say that I'm  
6 delighted to be here to support the confirmation of Maria  
7 Contreras-Sweet. I've known her for 15 years in her capacity in  
8 the business community as well as someone who has led diversity  
9 in the state through her own private and charitable efforts  
10 throughout the past years. I think she's a very good  
11 individual, well equipped to take on challenges to California.

12 We're working with her and the administration  
13 already on some housing initiatives to provide support  
14 wrap-around services, so to speak, for welfare recipients.

15 So, I urge her confirmation.

16 CHAIRMAN BURTON: Moved by Senators Hughes and  
17 Baca.

18 Any opposition?

19 Call the roll.

20 SECRETARY WEBB: Senator Baca.

21 SENATOR BACA: Aye.

22 SECRETARY WEBB: Baca Aye. Senator Hughes.

23 SENATOR HUGHES: Aye.

24 SECRETARY WEBB: Hughes Aye. Senator Knight.

25 SENATOR KNIGHT: Aye.

26 SECRETARY WEBB: Knight Aye. Senator Lewis.

27 SENATOR LEWIS: Aye.

28 SECRETARY WEBB: Lewis Aye. Senator Burton.

1 CHAIRMAN BURTON: Aye.

2 SECRETARY WEBB: Burton Aye. Five to zero.

3 CHAIRMAN BURTON: Congratulations.

4 I was going to say when you came up, I wondered  
5 where your top hat was, you know, you're like a drum majorette.  
6 But after answering Senator Lewis' questions, you are a  
7 wonderful dancer, too.

8 [Laughter.]

9 MS. CONTRERAS-SWEET: Thank you very much,  
10 Senator.

11 CHAIRMAN BURTON: Next is Secretary Lyons.

12 Senator Costa was going to be here to make an  
13 introduction. He's off making a speech.

14 I see Senator Peace, who will briefly introduce.

15 SENATOR PEACE: Mr. Chairman and Members of the  
16 Committee, to me it's an opportunity today to consider a nominee  
17 for Agency Secretary position who is extraordinarily qualified  
18 and has assembled a very broad base of support. Governor Davis'  
19 nomination of Bill Lyons as Secretary of the Department of Food  
20 and Agriculture has been enthusiastically endorsed by every  
21 major agricultural association.

22 In addition, he's been endorsed by a bipartisan  
23 coalition of Valley Legislators and elected officials  
24 representing every level of government: local, state, and  
25 federal. These endorsements are based on Bill Lyons' record and  
26 reputation earned as a farmer, an agri-businessman, an elected  
27 official, and his life-long involvement in his community and  
28 state.

1                Since 1976, Bill has been an integral part of the  
2 business community as the General Manager of Mapes Ranch, which  
3 is a Central Valley family farming and ranching operation which  
4 consists of 6,000 acres and which has been in the Lyons family  
5 for 75 years.

6                During that same time, he has been the General  
7 Managing Partner of Lyons Investments, a diversified family and  
8 ranching partnership of approximately 3,000 acres, where he  
9 grows a variety of crops and owns and manages a 1700 pair cattle  
10 operation.

11              Bill Lyons has also served with distinction in a  
12 wide variety of appointed and elected offices. Since 1993, he  
13 served as Chairman of the United States Department of  
14 Agriculture Farm Services Agency, overseeing 200 employees and  
15 32 offices, serving farmers and ranchers in 58 counties. From  
16 1996 to 1998, he served as Director of the East Stanislaus  
17 Resource Conservation District. Since 1996, he served as  
18 Director of the Doctors Medical Center Board of Directors for  
19 the largest health care provider in Stanislaus County.

20              From 1989 to 1993, he served on the California Farm  
21 Bureau Board of Directors. From 1984 to 1995, he served on the  
22 Modesto Irrigation District Board of Directors. Most recently,  
23 he was named Director of the Central Catholic High School Board  
24 of Directors in Modesto.

25              He was an Outstanding Young Farmer many years  
26 ago, and in 1984 he was named Outstanding Young Man of the  
27 United States of America.

28              He has served and continues to serve with the



1 Salvation Army, United Way, YMCA, Boy Scouts of America, and  
2 other fund raising groups. He was President of the Stanislaus  
3 Alien Legalization for Agriculture in 1990, and Vice President  
4 of the Modesto Chamber of Commerce 1990-91.

5 He attended California State University at  
6 Chico. He is married, has four children. The Lyons family  
7 represent the best traditions of community service and  
8 commitment to California.

9 And he is also a long-time friend of those of us  
10 who toiled in the vineyards of the Legislature, from the Central  
11 Valley, from Southern California and elsewhere, known by various  
12 acronyms, but now serving in Congress and other places that I'll  
13 leave unstated.

14 CHAIRMAN BURTON: Who wrote the speech? You or  
15 Condit?

16 SENATOR PEACE: Lynch.

17 CHAIRMAN BURTON: Secretary Lyons.

18 MR. LYONS: Good morning, Chairman Burton,  
19 Senators.

20 I appreciate the opportunity to speak before you  
21 today, this morning, regarding the confirmation of my  
22 appointment by Governor Davis as the Secretary of the California  
23 Department of Food and Ag.

24 As you have seen my resume, I have been actively  
25 involved in numerous business and community-related boards and,  
26 committees, most recently as the Chairman of the United States  
27 Department of Agricultural Farm Service Agency State Committee,  
28 which managed approximately 230 employees located in 32 offices

1 statewide, with a budget of over \$500 million in USDA programs.

2 I've spent the last 20 years married to my  
3 wonderful wife, Suzy, who happens to be here today, sitting  
4 behind me. And we've been blessed with four children: three  
5 boys, one girl, ages 12 to 18.

6 I'm honored by my appointment by Governor Davis  
7 as his Secretary of the Department of Food and Agriculture. I'm  
8 looking forward to working with all California's citizens on  
9 speaking solutions to the numerous issues facing California as  
10 we move into the next century.

11 In the recent past, the leadership in the  
12 Department's Executive Office received significant scrutiny from  
13 the Consumers Union and others over perceived conflicts of  
14 interest. I intend to strictly adhere to the requirements of  
15 the Fair Political Practices Act, the Department's in-house  
16 policies and regulations, and to the Department's recusal  
17 process. I will recuse myself from any and all interests that  
18 could be a conflict with my family's business.

19 In the area of the Department's programs, I  
20 believe that the Department can pursue further promotion of  
21 trade opportunities for California's agricultural products  
22 throughout the world. We can provide critical input towards  
23 negotiating non-tariff barriers that primarily include  
24 phytosanitary and sanitary barriers to our products. We can  
25 also improve our efforts to educate the industry on potential  
26 marketing opportunities.

27 The Department continues to play an important  
28 role in the enforcement of the state's food safety and quality



standards. I am proud of the voluntary efforts by industry in California to address food safety issues. Examples include the California Egg Quality Assurance Program and the Dairy Quality Assurance Plan.

However, I will be very focused on enforcement of laws and regulations that protect the public, especially pregnant women and children, from illnesses resulting from food borne pathogens in milk and dairy products and other food commodities.

As Senator Lewis is personally aware, the Department is the state agency with responsibility for preventing infestations of non-native weeds and insects in the state. Invasive pests are not exclusively an agricultural problem. The invasion of non-native weeds and insects has been identified several times in the last few months as the largest threat to survival of native species in the US, even larger than encroachment on habitat by development. Red Imported Fire Ant and Yellow Star Thistle are two examples of imported pests that are negatively impacting our urban and rural communities.

I intend to ask the Department to step up efforts to review and improve our systems of detection, and to exclude non-native pests before they become established in our state.

As a former Chairman of the USDA's Farm Service Agency State Committee, I am well aware of the dollars that potentially could come to California from the Agency for environmental, farm, farmworker, and rural housing programs. I will work to see that California gets its fair share from those funding resources.

1           As I stated in my letter to Chairman Burton, I'm  
2 especially proud of the broad base of support my appointment  
3 received from agriculture, from business, and environmental  
4 leaders.

5           I consider myself an able member of the  
6 Governor's team who would represent his administration to the  
7 agricultural community, the environmental community, and the  
8 people of California with dignity, honesty, and respect. It  
9 would be an honor to continue to serve this administration as  
10 the Secretary of the California Department of Food and  
11 Agriculture, and again, I thank you for your consideration.

12           CHAIRMAN BURTON: Senator Baca, then Senator  
13 Lewis.

14           SENATOR BACA: Thank you, Bill.

15           As you know, the freeze that we had, many of the  
16 farmers have suffered some terrible losses as a result of the  
17 freeze.

18           What are you doing to help these workers at this  
19 point?

20           MR. LYONS: Senator, the third day on the job,  
21 January 7th, I had really the unfortunate job of actually going  
22 down to the freeze area -- Fresno, Tulare, the Kern County  
23 area -- as we had over \$650 million of damage. As the Secretary  
24 of the California Department of Food and Agriculture, it was my  
25 responsibility to do that.

26           We have worked in concert with the Governor  
27 himself and with his other agencies, working with both the  
28 federal and our local officials. We're very proud of the fact

1 that we believe that we've addressed as many problems as we can  
2 down there in a record amount of time.

3 OES, Dallas Jones, which I believe was in front  
4 of your Committee several weeks ago, has been a leader, and we  
5 have had an excellent working relationship. I believe that we  
6 have responded in both a timely manner to a majority of the  
7 problems in that area.

8 SENATOR BACA: Thank you.

9 SENATOR LEWIS: Mr. Secretary, good to see you  
10 again.

11 There's been a lot of press attention recently  
12 about milk in the state of California. I understand that we  
13 have the highest standards of milk in the entire nation, and  
14 that there's obviously some kind of a trade-off. On the one  
15 hand, having the higher quality; on the other hand, perhaps  
16 restricting competition from other state producers that would  
17 have to be forced to meet a higher standard than they are in  
18 their own home state.

19 Can you shed any light on that? What's your  
20 position on whether or not any standards should be relaxed at  
21 all?

22 MR. LYONS: I believe, Senator, that we should be  
23 proud of the fact that we have the highest standard of milk in  
24 the nation. I think it's a responsibility of my agency to  
25 ensure that it's one of the highest and it is the highest  
26 standard of milk within the nation.

27 As you recently probably have seen, we've  
28 actually -- the Department instituted a 50 cent per gallon



1 reduction at farm gate level. Hopefully, that'll be carried  
2 through to the consumers.

3 But it is a consumer issue. Just recently, I  
4 asked my Department to actually do a telephone survey within the  
5 Sacramento area. You can buy a gallon of milk anywhere from  
6 \$2.60 to \$3.60 at the retail level.

7 Milk is a commodity that I believe is extremely  
8 important for especially our young children. I believe that we  
9 should keep the high standard, a standard that's well known  
10 throughout the nation.

11 SENATOR LEWIS: Forgive me, I don't have a lot of  
12 ag. in my district, but is there some kind of a law on the book  
13 that prohibits retailers from using milk as a loss leader?

14 MR. LYONS: Yes.

15 SENATOR LEWIS: What's the justification for  
16 that?

17 MR. LYONS: Senator, I'm not able to answer that  
18 question.

19 CHAIRMAN BURTON: I can. Do you want me to take  
20 it on?

21 SENATOR LEWIS: Farmer John, go ahead.

22 CHAIRMAN BURTON: Swing vote on the milk bill 30  
23 years ago.

24 One of the theories that's been advanced, and  
25 it's been on the books for a long time, why you can't sell milk  
26 below the cost of the milk would be to stop the big chains from  
27 using milk as a loss leader, bringing people in, having an  
28 adverse effect on either smaller stores or mom-and-pop stores

1 because it's such a basic commodity that they feel it could have  
2 an adverse impact on a smaller grocery stores, the mom-and-pop  
3 type stores from doing business.

4 That's a theory at least that I got the first  
5 time I looked at it, which was back in the '60s, and there may  
6 have been other things.

7 But really it's a prohibition of selling it below  
8 the cost of selling it, so to use it as a loss leader.

9 SENATOR LEWIS: Sounds like an interesting  
10 protectionist theory.

11 CHAIRMAN BURTON: Well, it depends on how many  
12 mom-and-pop stores you've got in your district.

13 SENATOR BACA: I've got all the cattle in my  
14 district, 350,000.

15 CHAIRMAN BURTON: And they all voted for you.

16 SENATOR LEWIS: Don't be telling those trade  
17 secrets now.

18 We recently heard from the Department of  
19 Industrial Relations relative to they're still trying to flesh  
20 out what they ultimately want to do on the eight-hour day  
21 controversy. But I understand that agricultural workers have  
22 been exempt from those requirements in the past.

23 What's your thought on that?

24 MR. LYONS: Senator, I have to speak as coming  
25 from the agricultural industry. My relationship and my private  
26 role was, we had a great relationship with our workers and our  
27 laborers.

28 I don't have a philosophy or a policy on that.



1 At this time I feel uncomfortable in addressing that particular  
2 issue.

3 SENATOR LEWIS: Fair enough.

4 SENATOR BACA: Move the nomination.

5 SENATOR LEWIS: We'll recognize the motion, but  
6 we'll hold the vote for a minute.

7 Lastly, as you know, I've been concerned about  
8 what you've already mention, and that's the outbreak that we  
9 have in Orange County and a couple of other adjoining counties  
10 with the Red Imported Fire Ant.

11 The Department originally was going to be  
12 forthcoming with their action plan in mid or late February, I  
13 think it was.

14 Can you give us your most recent up-to-date  
15 explanation of where that stands, and also maybe a little bit of  
16 up-to-date information on what's going on in terms of what you  
17 found recently about the depth of the problem?

18 MR. LYONS: Senator, that is an area I feel  
19 fairly comfortable with to address. It is serious concern. In  
20 fact, just last Saturday, I was down in Orange County to review  
21 it personally myself. It's an area that the Department is  
22 working diligently on, especially with a number of other state  
23 agencies, also with a number of the local stakeholders and with  
24 the environmental communities.

25 We've had, I believe, two public sessions that  
26 we've attended down in Orange County. We are continuing to  
27 review and modify our draft plan, and we hope to be able to  
28 deliver that plan within the next several weeks on what our

1 thoughts are on how we should eradicate/control this particular  
2 pest.

3 SENATOR LEWIS: Unfortunately, it's starting to  
4 seem that the several weeks keep kind of dragging on to be  
5 several more weeks, and I'm starting to get a little bit  
6 anxious.

7 MR. LYONS: Senator, I can assure you that I  
8 think it was extremely important for me to be down there and to  
9 actually see it first-hand. And I made the decision to go down  
10 there. I actually took my under-secretary with me to review it  
11 first-hand. And I'm confident, I'm confident, that we're going  
12 to have a plan that's going to address some of the local  
13 issues.

14 SENATOR LEWIS: As you know, I'm carrying  
15 legislation that would appropriate additional moneys for the  
16 Department to help out with your plans on eradication.

17 I appreciate the fact that some of your staff was  
18 at the policy committee hearing, but I hope you help us expedite  
19 that legislation through the legislative process.

20 I'm getting increasingly nervous that we're  
21 getting close to the point of no return, where eradication will  
22 no longer be an option in Orange County unless we move quickly.

23 MR. LYONS: Senator, I can assure you that this  
24 particular issue is one of my primary issues. I deal with this  
25 every day. I'm in contact with my staff. My staff is in  
26 contact with a number of local agencies.

27 It is a serious problem, and we plan to deal with  
28 it.

1                   SENATOR LEWIS: Mr. Baca made a motion,  
2 Mr. Chairman.

3                   CHAIRMAN BURTON: I would suggest, and I don't  
4 know whether it should be inter-agency or just Ag. alone, but  
5 we've got, I think, three deals going on milk right now.

6                   One is dealing with the below cost. One is  
7 dealing with milk imports, so to speak. And one is, I think,  
8 dealing -- although I haven't seen it -- maybe with some  
9 modifications of the Milk Pooling Act.

10                  I think all three of those bills, although  
11 they're not necessarily interrelated, I think they're all going  
12 to have a ripple effect on the industry as a whole, and one  
13 could or could not lead to another.

14                  I would hope that the Department would, as soon  
15 as you get either your feet wet or dry, put together a task  
16 force to review this, because people will wonder, you know, why  
17 can't milk be used as a loss leader. Is it a protection for  
18 mom-and-pop stores or is it doing whatever it is.

19                  I think the most interesting thing is that it's  
20 clear the container damn near costs more than the milk. You  
21 know, you buy a quart of milk, it's going to cost you about 70  
22 percent of what a half-gallon's going to cost you, which again  
23 costs well over 50 percent, or close, over what a gallon costs  
24 you. There's more money, and maybe if we get them in the  
25 two-and-a-halves, like we used to do with ice cream, it'd come  
26 even cheaper.

27                  But, take a look at the pricing mechanism. Take  
28 a look at the health standards issue, and take a look at really



1 the effects of the Milk Pooling Act, because it's all coming  
2 back into focus.

3 And I think the fact that more and more of us  
4 represent urban-suburban districts, I've got a handful of dairy  
5 men in the district I represent, but nothing like Senator Costa,  
6 or Baca, and Poochigian, or some of the others, but I think it's  
7 something to be looked at, so that if we do act in this area, we  
8 act realizing what the consequences will be. And I don't  
9 necessarily mean they're going to be bad, but what the  
10 consequences or the effects of our action are going to be.

11 Because we have, I think, in the Legislature now,  
12 except some people from ag. districts who are, like Jimmy and I  
13 don't know who else that maybe have relationship with dairy  
14 farming, and myself, because I happened to be on the Ag.  
15 Committee years ago when a lot of this stuff happened, nobody's  
16 got a concept of the history or the why of it.

17 I think it's very important for the Department or  
18 the Agency to review these programs, to take a look so that if  
19 the Legislature decides to do something, yeah, milk will be  
20 three cents a gallon less, and the effect of it's going to be  
21 something over here, so we know the total effects. I think  
22 that's something I would strongly suggest.

23 MR. LYONS: Thank you, Senator, for those  
24 comments. I'll definitely take those suggestions back to my  
25 Department.

26 CHAIRMAN BURTON: Senator Costa wanted to make  
27 some comments. We'll ask for people to just come up and  
28 announce their support and opposition, if any, then we'll go to

1 a vote.

2 SENATOR COSTA: Thank you very much, Senator  
3 Burton, Chairman and Members of the Rules Committee.

4 I do want to add my support to Secretary Bill  
5 Lyons. I think his background and experience speaks well for  
6 itself. I think he's an excellent appointment as the Secretary  
7 of the Department of Food and Agriculture in California.

8 And I think the Chairman's comments as they  
9 relate to a host of issues involving California agriculture are  
10 on point. We, a year-and-a-half ago, Chairman Cardoza and  
11 myself, held ten months of meetings with the milk industry.

12 And when the Act was created back when Senator  
13 Burton was an Assembly Member back in the late '60s, early '70s,  
14 a lot has changed over that 25-28 year period. And I think it's  
15 appropriate that the Department take look at that with all the  
16 various interested parties in this state and make some  
17 recommendations as to whether or not changes should be done.

18 I think the policy committee's going to do  
19 likewise.

20 There are other issues that he's involved with:  
21 from trade, to the ability to protect our port of entries, to  
22 maintain the quality and the health quality standards of our  
23 agricultural products. I think that in a host of fields, he is  
24 already beginning to advise the Governor on the difficult  
25 challenges facing the California agricultural industry, and he  
26 has committed to work closely with Members of the Legislature,  
27 he has promised me, to ensure that we have a good working  
28 relationship, and I think that's important.



1           For all those reasons, I would urge your support  
2 of this nomination.

3           CHAIRMAN BURTON: Thank you, Senator.

4           Individuals in support, come up briefly, just  
5 identify yourself.

6           MR. CAMP: Mr. Chairman, Bill Camp, representing  
7 the California Labor Federation, AFL-CIO.

8           We support Director Lyons. He's worked with us  
9 in the citrus freeze, and we found him to be a good partner.

10          MS. MOSEKIAN: Good morning, Dee Dee Mosekian,  
11 representing the Women's Appointment Project CDFA Task Force. We  
12 strongly support Bill Lyons' confirmation.

13          In addition, I'm legal counsel to Congressman  
14 Condit, and he is in Washington today, and would also like to  
15 urge the confirmation.

16          Thank you.

17          MS. POWERS: Kirstin Powers, Agricultural Council  
18 of California in support of the nomination.

19          MS. NERA: Valerie Nera of the California Chamber  
20 of Commerce in support of the nomination.

21          MR. MACOLA: Mr. Chairman, Stephen Macola on  
22 behalf of the California Emergency Food Link in support.

23          I might also add, I had the privilege of serving  
24 this body as the Staff Director to the Senate Ag. Committee for  
25 20 years, and I recommend him personally without qualification.

26          MS. SCHMEICHEN: Kathy Schmeichen, National  
27 Audubon Society in support.

28          CHAIRMAN BURTON: I want to hear this one. You

1 sit down; I want to hear it all.

2 MR. TERRY: Good morning, Senator. Dan Terry,  
3 President of the California Professional Fire Fighters, and have  
4 very little to do with the Department of Agriculture.

5 But I do -- Bill Lyons is a 20-year friend of  
6 mine. Both myself -- I was ten years on the Board of  
7 Supervisors of Stanislaus County when Bill was the head of the  
8 Farm Bureau.

9 He is a man of great integrity. I know him, his  
10 wife, his entire family. You haven't lived until you've got a  
11 Christmas card from the Lyons family.

12 So, I'm here to urge your support of Bill.

13 CHAIRMAN BURTON: I thought it was about his  
14 concern for the Fire Ants.

15 MS. ROSS: Karen Ross, California Association of  
16 Winegrape Growers.

17 We're enthusiastic supporters of the Secretary's  
18 nomination.

19 CHAIRMAN BURTON: Any opposition.

20 Moved by Senator Baca. Call the roll.

21 SECRETARY WEBB: Senator Baca.

22 SENATOR BACA: Aye.

23 SECRETARY WEBB: Baca Aye. Senator Hughes.

24 SENATOR HUGHES: Aye.

25 SECRETARY WEBB: Hughes Aye. Senator Knight.

26 SENATOR KNIGHT: Aye.

27 SECRETARY WEBB: Knight Aye. Senator Lewis.

28 SENATOR LEWIS: Aye.

1 SECRETARY WEBB: Lewis Aye. Senator Burton.

2 CHAIRMAN BURTON: Aye.

3 SECRETARY WEBB: Burton Aye. Five to zero.

4 CHAIRMAN BURTON: Congratulations.

5 MR. LYONS: Thank you, Senator.

6 [Thereupon this portion of the  
7 Senate Rules Committee hearing was  
8 terminated at approximately 10:25 A.M.]

9 --ooOoo--

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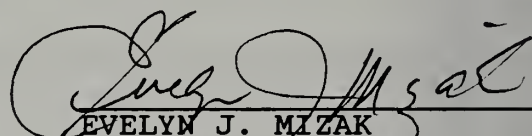
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That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 11<sup>th</sup> day of March, 1999.

  
EVELYN J. MIZAK  
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SENATOR JOHN LEWIS, Vice Chair

SENATOR JOE BACA

SENATOR TERESA HUGHES

SENATOR WILLIAM KNIGHT

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

WADE TEASDALE, Consultant to SENATOR LEWIS

FELICE TANENBAUM, Consultant to SENATOR HUGHES

DAVID OROSCO, Consultant to SENATOR KNIGHT

MANNY HERNANDEZ, Consultant to SENATOR BACA

ALSO PRESENT

ROBERT E. BURTON, Commissioner  
Workers' Compensation Appeals Board

TOM M. HANNIGAN, Director  
Water Resources

SENATOR JIM COSTA

JACKSON R. GUALCO  
The Gualco Group

STEPHEN A. MACOLA  
Moulton Niguel Water District



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## P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: The first Governor's appointment is for the Workers' Comp. Appeals Board, Robert Burton.

MR. BURTON: Good morning. Thank you very much for inviting me here.

CHAIRMAN BURTON: Do you want to open with your statement.

MR. BURTON: Make a statement, well, I was appointed by the Governor for this position. I had held it previously from 1979 to 1984.

As you know, or maybe you don't know, it is a judicial body. It is not an administrative one. There's a lot of confusion.

I noticed one of the questions that was given to me, general information, was: How many cases do you hear? We hear zero. We have paper.

After a case has been decided at the trial level by what we call a Workers Compensation Judge, and other folks call administrative law judges in other areas, they come up for us on appeal. One side or the other, sometimes both sides, are unhappy. It's our job to adjudicate them. We may change the whole thing, change the records. We are totally autonomous in this area.

We get approximately 6200 a year that come into the office. Owing to a shortfall in bodies, we have only three of us to handle that load for the moment. It's a seven-member





1 commission, and there are at the moment three of us who are on  
2 the Board.

3 We have a time -- they call it a time frame for  
4 action. The cases that are sent up have 60 days in which to be  
5 adjudicated. After that, they die by administrative law;  
6 nothing happens. Whatever the previous decision was is now the  
7 permanent decision.

8 CHAIRMAN BURTON: Senator Lewis.

9 SENATOR LEWIS: Mr. Burton, you have a heavy  
10 cross to bear. I was wondering, are you going to be able to  
11 overcome your blood lines?

12 MR. BURTON: Actually sir, our Irish mother  
13 allowed as how that we can do it. We have the County of Cork,  
14 and we have our problems, but lineage ain't one of them. It's  
15 not one of them. We do not have the scotch in that it's not  
16 that when you're not a bastard.

17 SENATOR KNIGHT: I don't have any questions.

18 CHAIRMAN BURTON: Senator Hughes.

19 SENATOR HUGHES: I'd like to move the nomination.  
20 I think this is harassment, and it's unnecessary.

21 CHAIRMAN BURTON: Opposition in the audience?  
22 Do you want to introduce any members of your  
23 present --

24 MR. BURTON: Before me sits my younger brother.

25 CHAIRMAN BURTON: Call the roll.

26 SECRETARY WEBB: Senator Baca.

27 SENATOR BACA: Aye.

28 SECRETARY WEBB: Baca Aye. Senator Hughes.



1 SENATOR HUGHES: Aye.

2 SECRETARY WEBB: Hughes Aye. Senator Knight.

3 SENATOR KNIGHT: Aye.

4 SECRETARY WEBB: Knight Aye. Senator Lewis.

5 SENATOR LEWIS: Aye.

6 SECRETARY WEBB: Lewis Aye. Senator Burton.

7 CHAIRMAN BURTON: Aye.

8 SECRETARY WEBB: Burton Aye. Five to zero.

9 CHAIRMAN BURTON: Congratulations.

10 MR. BURTON: Thank you very much.

11 CHAIRMAN BURTON: Keep this for your --

12 MR. BURTON: Thank you for that very charming  
13 curve ball.

14 CHAIRMAN BURTON: -- according to this, his  
15 public service is Clinton Reilly for Mayor, Storm Jenkins for  
16 Assembly, Milton Marks for Senate in 1967, Tom McClintock for  
17 Senate 2000, and a Charter Member of the Quentin Kopp Fan Club.

18 MR. BURTON: Thank you very much.

19 CHAIRMAN BURTON: Senator Costa.

20 SENATOR COSTA: Thank you very much.

21 CHAIRMAN BURTON: Mr. Director designate.

22 SENATOR COSTA: President Pro Tem, Members of the  
23 Senate Rules Committee, I know brevity's in order.

24 I have the honor of introducing a person who  
25 needs no introduction because he has served with us over the  
26 years with fine distinction.

27 The Governor, I think, chose, and fittingly so,  
28 to nominate Tom Hannigan, former Assembly Member, to the



1 Director of State Water Resources, Department of Water  
2 Resources, a very important position in the State of California,  
3 given not only the history of water in this state, but also the  
4 importance as the state grows to plan adequately for our  
5 environment, for the growing population, and to maintain our  
6 agriculture economy. It's a difficult task that involves  
7 complexity of issues, and this gentleman next to me has the  
8 ability to take that task head on. I think he will be a problem  
9 solver.

10 For all those reasons, I would urge your support.  
11 It is my honor to introduce him. Again, he needs no  
12 introduction, but it is again my honor as the Chairman of the  
13 Senate Ag. and Water Committee.

14 This gentleman I got to sit next to as the Caucus  
15 Chairman when he was the Majority Leader for four-and-a-half  
16 years, and it's good to have him back. I hope you'll confirm  
17 his appointment as the Director of the State of California's  
18 Department of Water Resources.

19 CHAIRMAN BURTON: Mr. Director.

20 MR. HANNIGAN: Thank you, Senator Costa. I  
21 appreciate those kinds words.

22 I, too, was appointed by the Governor to serve as  
23 the Director of the Department of Water Resources on the first  
24 of March. It's a challenge that I find exciting, and certainly  
25 a learning experience for me.

26 I have visited individually with each of you and  
27 spent is sometime discussing the Department, and where I hope to  
28 take it in the next few years.





1 I'd be happy to answer any questions that you  
2 might have.

3 CHAIRMAN BURTON: Senator Lewis.

4 SENATOR LEWIS: Just one question.

5 MR. HANNIGAN: I'm not related to him.

6 [Laughter.]

7 SENATOR LEWIS: We served together in the  
8 Assembly for 11 years. I was wondering if you have any  
9 recollection of how many times you ever uttered those words,  
10 "Move to lay the amendments on the table."

11 MR. HANNIGAN: I lost count at some point.

12 CHAIRMAN BURTON: The real question is, did you  
13 vote for pawn broker bill?

14 Senator Hughes.

15 SENATOR HUGHES: Mr. Hannigan, I'd like to know  
16 if you have a teaching credential because of the fact in my  
17 interview with you, you taught me a great deal about the  
18 Department of Water Resources. I know exactly what your job is,  
19 and I don't envy you.

20 MR. HANNIGAN: You know, what I told you could be  
21 put on the head of a pin with respect to water.

22 SENATOR HUGHES: How complicated it is.

23 MR. HANNIGAN: The point is, I don't have a  
24 teaching credential. I failed the C-BEST test three or four  
25 times.

26 SENATOR HUGHES: I was just joking. I call it  
27 the C-WORST anyway.

28 But I am very thrilled that you are going to be



1 with the Department.

2 MR. HANNIGAN: Thank you, Senator.

3 SENATOR HUGHES: I think this is one of our major  
4 resources that hasn't been handled totally properly, and we look  
5 forward to your assistance in this matter.

6 MR. HANNIGAN: Thank you.

7 CHAIRMAN BURTON: Senator Baca.

8 SENATOR BACA: Tom, one of the questions that I  
9 have, as you're quite aware, the Department of Water Resources,  
10 one of the major responsibilities it has is with underground  
11 water.

12 Is the underground water adequately being  
13 monitored in California? What can be done in that area?

14 MR. HANNIGAN: Actually, my friend, Senator  
15 Costa, authored legislation in the '80s that created a voluntary  
16 groundwater management law. There are a number of water  
17 districts, some of them combined, throughout the state who are  
18 voluntarily managing their groundwater.

19 The Department has a process called Bulletin 118  
20 which reviews groundwater management and makes recommendations  
21 to the Legislature. That bulletin has not been addressed since  
22 1980. One of the things I hope to do in the next year or two is  
23 upgrade Bulletin 118 and bring to you some observations, maybe  
24 some recommendations with respect to groundwater management.

25 SENATOR BACA: Thank you, because that's an area  
26 that I'm very much concerned about. I know that in the Inland  
27 Empire, we have a lot of underground water. In some areas, it  
28 even surfaces up to the top in the postal offices in some of the





1 other areas, so I'm very much concerned. Thank you.

2 With that, I move the nomination.

3 CHAIRMAN BURTON: Senator Knight.

4 SENATOR KNIGHT: I don't have any questions.

5 MR. HANNIGAN: Thank you.

6 CHAIRMAN BURTON: Is there any opposition?

7 Witnesses in support, just name and serial  
8 number.

9 Thank you, Senator Costa.

10 MR. GUALCO: Mr. Chairman and Members, Jack  
11 Gualco on behalf of our business, agriculture and water clients.

12 Just want to say that Tom Hannigan's the right  
13 guy at the right time. Our clients have been impressed with his  
14 ability to pull disparate groups together, and we wish him every  
15 success and recommend him to you without any qualification  
16 whatsoever.

17 CHAIRMAN BURTON: Next.

18 MR. MACOLA: Mr. Chairman, Stephen Macola, Macola  
19 and Associates, representing Moulton Niguel Water District.

20 I have the privilege of recommending Mr. Hannigan  
21 to this body without qualification. I wish both you and he  
22 well.

23 CHAIRMAN BURTON: Where are we in the CAL-FED  
24 process?

25 MR. HANNIGAN: We are we? We are close to having  
26 a preferred alternative on the street sometime later this month,  
27 including a draft EIR/EIS. And I hope decisions are made on  
28 that sometime by August.



1                   CHAIRMAN BURTON: Then what happens?

2                   MR. HANNIGAN: Then we start the next phase of  
3 CAL-FED.

4                   CHAIRMAN BURTON: If you're lucky, your term will  
5 be finished before you have to?

6                   MR. HANNIGAN: I'm very supportive of CAL-FED,  
7 and many CAL-FED employees are using Department of Water  
8 Resources slots.

9                   But it is not totally under my control. It's a  
10 process.

11                  CHAIRMAN BURTON: What's our role in that? Do we  
12 have to prove anything?

13                  MR. HANNIGAN: Well, the state and the feds have  
14 an equal responsibility.

15                  CHAIRMAN BURTON: I'm talking legislative,  
16 Legislature.

17                  MR. HANNIGAN: You'll have one-half of --  
18 whatever is approved has to be approved by the Legislature and  
19 has to be approved by the legislative body at the federal level.

20                  CHAIRMAN BURTON: One other thing, and I think  
21 that SOR put a question, here but I think events have overcome  
22 the problem of PG&E on the hydro power divestiture. Does that  
23 come under you?

24                  MR. HANNIGAN: Yes, in a way. We have an  
25 interest in that process. We've talked to PG&E; we've talked to  
26 the rural county group and others about what may evolve.

27                  But it's conceivable that the Department of Water  
28 Resources, on behalf of the state, could acquire all or most of



1 the PG&E assets at some point. That's a possibility.

2 CHAIRMAN BURTON: Are you familiar, there was ten  
3 million in the May Revise?

4 MR. HANNIGAN: Right, for the integrated storage  
5 investigation. It's a part of CAL-FED.

6 CHAIRMAN BURTON: There is five million looking  
7 at sites reservoir?

8 MR. HANNIGAN: That's correct.

9 CHAIRMAN BURTON: We gave them ten million to  
10 look at it last year.

11 MR. HANNIGAN: That's right. I saw a memo from  
12 the Department that said that process could cost as much as 45  
13 million dollars.

14 CHAIRMAN BURTON: To look at it?

15 MR. HANNIGAN: Yes.

16 CHAIRMAN BURTON: How do you get on that pad?

17 MR. HANNIGAN: I don't know.

18 CHAIRMAN BURTON: Where would we find out what  
19 they did with the ten?

20 MR. HANNIGAN: I can have that information for  
21 you, sure.

22 CHAIRMAN BURTON: Could you give it to Mary  
23 Shallenberger?

24 MR. HANNIGAN: Sure. Just deliver it to Mary.

25 CHAIRMAN BURTON: Moved by Senator Baca.  
26 Secretary call the roll.

27 SECRETARY WEBB: Senator Baca.

28 SENATOR BACA: Aye.





1 SECRETARY WEBB: Baca Aye. Senator Hughes.

2 CHAIRMAN BURTON: Do you want to introduce your  
3 family?

4 MR. HANNIGAN: My family are all busy working.  
5 Couldn't make it.

6 SECRETARY WEBB: Senator Hughes.

7 SENATOR HUGHES: Aye.

8 SECRETARY WEBB: Hughes Aye. Senator Knight.

9 SENATOR KNIGHT: Aye.

10 SECRETARY WEBB: Knight Aye. Senator Lewis.

11 SENATOR LEWIS: Aye.

12 SECRETARY WEBB: Lewis Aye. Senator Burton.

13 CHAIRMAN BURTON: Aye.

14 SECRETARY WEBB: Burton Aye. Five to zero.

15 CHAIRMAN BURTON: Congratulations.

16 MR. HANNIGAN: I could introduce Nancy Fox, who  
17 was my first secretary in the building in 1978.

18 [Thereupon this portion of the  
19 Senate Rules Committee hearing was  
20 terminated at approximately 10:18 A.M.]

21 --ooOoo--

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CERTIFICATE OF SHORTHAND REPORTER


I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

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CHRIS BURNS, Consultant to SENATOR KNIGHT

MANNY HERNANDEZ, Consultant to SENATOR BACA

ALSO PRESENT

C. HUGH FRIEDMAN, Member  
Air Resources Board

SENATOR DEDE ALPERT

ALAN C. LLOYD, Member  
Air Resources Board

SENATOR BYRON SHER

TOMMY ROSS  
Southern California Edison

SANDRA SPELLISCY  
Planning and Conservation League



1 JACK GUALCO  
California Council for Environmental Economic Balance

2  
3 PETER WEINER  
Paul, Hastings, Janofsky and Walker

4  
5 JOE CAVES  
Union of Concerned Scientists

6  
7 JULIE MALINOWSKI-BALL  
California Electric Transportation Coalition  
Independent Energy Producers Association

8  
9 JANET HATHAWAY  
Natural Resources Defense Council

10  
11 JOHN WHITE  
Sierra Club  
Clean Power Campaign

12  
13 TIM CARMICHAEL  
Coalition for Clean Air

14  
15 ROBERT C. HIGHT, Director  
Department of Fish and Game

16  
17 PETE PRICE  
Natural Resources Defense Council  
Center for Marine Conservation  
League for Coastal Protection  
18 United Anglers of Southern California

19  
20 JACK GUALCO  
Various Industry, Agricultural and Water Clients

21  
22 DAVID GARDNER, President  
California Fish and Game Wardens' Protective Association

23  
24 LYNN SADLER  
Mountain Lion Foundation

25  
26 JERRY MERAL  
Planning and Conservation League

27  
28 JOHN McCALL  
National Audubon Society





1 DANNY CURTIN  
California State Council of Carpenters

2  
3 STEPHEN MACOLA  
Moulton Niguel Water District

4  
5 JOE CAVES  
Nature Conservancy

6 MARCY V. SAUNDERS, Chief  
7 Division of Labor Standards Enforcement  
Department of Industrial Relations

8  
9 SENATOR JACKIE SPEIER

10 ASSEMBLYMAN LOUIS PAPAN

11 JIM KELLOGG  
United Association of Journeymen and Apprentices

12  
13 BOB BALGENORTH, President  
State Building and Construction Trades Council

14 TOM RANKIN  
15 California Labor Federation, AFL-CIO

16 JOE WINSTEAD  
California Pipe Trades Council

17  
18 ROBERT PERNELL  
California Council of Laborers

19 DENNY CURTIN  
20 California State Council of Carpenters

21 RICHARD GORDON, Member  
22 San Mateo County Board of Supervisors

23 BARRY BROAD  
Teamsters  
24 Amalgamated Transit Union  
Engineers and Scientists  
25 Machinists  
Hotel and Restaurant Employees  
26 Food and Commercial Workers

27

28



1 ADRIENNE TISSIE, Mayor  
2 City of Daly City

3 DAVID LANHAM  
4 Operating Engineers, Local 12

5 WILLIAM C. WAGNER, Business Manager  
6 Operating Engineers, Local 12

7 SCOTT STRAWBRIDGE, Executive Vice President  
8 Mechanical Contractors Association of  
9 Northern California, Central California, and Southern California

10 MICHAEL MONAGAN  
11 Sheet Metal and Air Conditioning Contractors  
12 Western Wall and Ceiling Contractors

13 ART CARTER  
14 State Sheet Metal Workers Association  
15 Western States Council of Sheet Metal Workers

16 EDDIE BERNACCHI  
17 National Electrical Contractors Association

18 WILLIAM NACK, Business Manager  
19 San Mateo County Building Trades Council  
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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: We have several gubernatorial appointees. Here first, C. Hugh Friedman, Member, State Air Resources Board.

Senator Alpert.

SENATOR ALPERT: Good morning.

I'm honored to be here to introduce one of my constituents, a person who has been a friend of mine for a number of years, a friend of my husband's, I think, for probably about 25 years.

Hugh has a marvelous professional background as a renowned attorney and as a law professor at USD. But I think even more important than his professional credentials is the fact that all of his adult life, he has been involved in public service. This isn't his first opportunity to serve, but everytime he has been called upon, he has come to serve. I think of his service particularly on the State Board of Education and the work that he did.

I was telling him one day that one of the reports that I read, I thought that many of the things they were saying in the '80s, if we'd the only taken heed and paid attention, we might not be in the problems that we have here in the '90s.

He is just an outstanding person, a very decent man, and a very talented man, a very bright man, and we would be very, very lucky to have him serve on the Air Resources Board. And I'm just honored to be here today to introduce him to all of you.

1 MR. FRIEDMAN: Thank you, Mr. Chairman.

2 Thank you very much, Senator Alpert. I count you  
3 among my true and good friends, and I really appreciate your  
4 taking the time in your busy schedule to introduce me to your  
5 colleagues.

6 Chairman Burton, Members, I'm pleased to appear  
7 before you today as you consider my confirmation to the Air  
8 Resources Board. As you know, Governor Davis appointed me to  
9 serve as one of the two public members of the Air Resources  
10 Board, and I consider it both a great privilege and a great  
11 responsibility to do so.

12 I'm committed fully, wholeheartedly to the  
13 Governor's environmental objectives, and I understand that the  
14 Air Resources Board's responsibility, first and foremost is to  
15 protect public health. I'm glad that I had the opportunity at  
16 my first meeting in April to vote on the continuation of the  
17 ARB's landmark Children's Health Study. And the issue of air  
18 pollution on growing children and on infants is terribly  
19 important, and we need to know a lot more about it in order to  
20 deal with it.

21 In terms of my own background, I am essentially  
22 an educator and a lawyer. I've been practicing, teaching,  
23 writing about, business law, particularly corporate law, for the  
24 past 40 years. And in my private practice over the many years,  
25 I have represented and guided clients and hope to educate them,  
26 small businesses and large, through a wide range of business  
27 regulations, and notably including environmental laws and  
28 regulations, and related processes. So, I am interested in



1 assuring fairness in the regulatory process.

2           And I also believe that education is the key to  
3 common ground. Once people see how and why their activities  
4 pollute the air, and once they understand why a certain  
5 environmental rule has been put into effect, how it relates to  
6 the air they and their families breathe, then I think the lion's  
7 share of resistance tends to fall away. Generally then people  
8 are willing to talk about how specifically we can together  
9 accomplish our common goal of a clean and healthful environment.

10           I found this to be particularly true when working  
11 with small businesses that are facing regulations sometimes for  
12 the first time. I've also found fair process in education to be  
13 keys to success in those prior undertakings, as Senator Alpert  
14 referred to when I had the privilege in the past of serving our  
15 state as member of the Automobile Accident Study Commission some  
16 years ago, appointed by then-Governor Reagan, later as Chair of  
17 the California Securities Regulatory Reform Commission,  
18 appointed by the administration of Governor Brown, and then as a  
19 Member and President of the California State Board of Education,  
20 and more recently as a Member of your own Senate Commission on  
21 Corporate Governance, Shareholder Rights and Securities  
22 Transactions, chaired by Senator McCorquodale, and later by  
23 Senator Killea.

24           And as Chairman Lloyd indicated in his letter to  
25 the Committee, one of his goals, which I share wholeheartedly,  
26 is to continue to improve upon the Air Resources Board's small  
27 business assistance programs. I hope to contribute to that in  
28 some way.

1 I served on the President's most recent White  
2 House Conference on Small Business Commission which gave me a  
3 much better understanding of the problems that small business  
4 faces in meeting and satisfying regulations, and it's led to  
5 initiatives to reduce red tape and streamline government, many  
6 of those at the federal level, which you have already done here  
7 at the state level.

8 But there may always be room for additional  
9 improvement, and I'd like to focus, among other things, on  
10 financing aspects of pollution control to better assist business  
11 and others whose activities with good, sound, credible science,  
12 we determine are polluting, help them comply and comply soon.

13 As a public member, I believe I have an  
14 obligation, and I will honor it, to express the public's  
15 unwaivering commitment to clean and healthful air. I believe,  
16 though, that determining and identifying the sources of air  
17 pollution, we must do that based on very sound science. And I  
18 think it's got to be based on studies that are not highly  
19 controversial, or else we should go slow.

20 I also think that we should do this in  
21 partnership with those whose activities we identify as the  
22 sources of pollution, and we should try to find with them  
23 solutions which will mitigate or eliminate the problem that are  
24 the least damaging to legitimate activities.

25 On the other hand, we always have to set  
26 ambitious goals for ourselves and for the regulated community.  
27 For example, I don't believe we would have ever gotten the lead  
28 out of gasoline or out of paint without a strong push from

1 government and without some very sound science and public health  
2 information to back it up.

3 As a Member of Air Resources Board, I intend to  
4 keep learning. I intend to do my best to enhance the education  
5 of others as to the importance of our I endeavor, and I will at  
6 all times endeavor to maintain a even-handed, balanced approach.

7 I appreciate this opportunity to appear before  
8 you, and will try to answer any questions.

9 CHAIRMAN BURTON: Senator Lewis.

10 SENATOR LEWIS: Good morning, Mr. Friedman.

11 MR. FRIEDMAN: Good morning, Senator.

12 SENATOR LEWIS: You mentioned the need to make  
13 sure that regulations are based on sound science. I certainly  
14 concur.

15 I was wondering, what do you think of the  
16 requirement in law relative to the ten percent of the vehicles  
17 in California by the year 2003 being low or no emission  
18 vehicles?

19 MR. FRIEDMAN: Do I think that's a practical,  
20 realistic goal?

21 I think it's a goal that is going to be reviewed  
22 technologically by the Board, as I understand it, next year, in  
23 the year 2000, to see where we are.

24 I think we ought to hold to that at this point  
25 without further information.

26 There are a lot of advances, wonderful  
27 technological advances that I'm just beginning to learn about.  
28 The hybrid, the fuel cell; others that can extend battery life.



1 There are, indeed, studies going on that may suggest that there  
2 are various ways of extending battery life and addressing the  
3 problems that presently seem to blight the hope of the purely  
4 electric car.

5 SENATOR LEWIS: The South Coast Air Quality  
6 Management District is once again thinking about expanding  
7 certain parts of their ride sharing program. I guess they're  
8 talking now about a mandatory ride sharing program to sporting  
9 events, and those kind of activities.

10 What's your thought on that kind of a regulation?  
11 What's your thought on mandatory ride sharing programs in  
12 general?

13 MR. FRIEDMAN: Well, it's a congestion control  
14 device, but I don't believe mandates are the way to go, to be  
15 very frank about it. I think that it's always better if you can  
16 get voluntary ride sharing and car pooling, and provide the  
17 appropriate incentives and the proper education to educate the  
18 populace. I don't think that the mandates are appropriate.

19 SENATOR LEWIS: Last question. I see you've done  
20 some work for the San Diego Padres.

21 MR. FRIEDMAN: Yes, I had the privilege of  
22 negotiating the National League franchise for San Diego in those  
23 early days.

24 SENATOR LEWIS: When's Tony Gwynn going to be  
25 healthy again?

26 MR. FRIEDMAN: I wish we knew.

27 CHAIRMAN BURTON: Senator Baca.

28 SENATOR BACA: Hugh, just a couple of questions.

1 In the air, I guess, research has been done that has found  
2 pollution to be high and concentrated, especially in low income  
3 and minority areas. The pollution arises from waste  
4 incinerators, chemical plants, freeways, farm pesticides.

5 Do you have any ideas how to improve the air  
6 quality in low income areas?

7 MR. FRIEDMAN: I think I've learned that this is  
8 a serious and important question that really devolves on what is  
9 being called environmental justice. And I think that's an  
10 appropriate label.

11 To the extent that there are individual  
12 communities that seem to have more pollution, and they  
13 frequently tend to be areas that are lesser income, they're  
14 caught in a vicious cycle, and there's got to be remedies that  
15 we can fashion somehow as a civilized society.

16 On the other hand, I think we need to know more  
17 about it. I believe there are studies under way to assess the  
18 aggregate cumulative effect of air pollution in individual  
19 particular communities that have been identified. And I think  
20 we need to get that data, and then wrestle with this and come to  
21 grips with it, and find some solution.

22 SENATOR BACA: I appreciate that, because we  
23 really need to address it, especially as it impacts a lot of  
24 those areas that are low income and have no choice because of  
25 the affordability of their homes, but yet its impact on them and  
26 their children are being affected tremendously.

27 And the same thing also happens in my immediate  
28 area in the San Bernardino area as far as the air quality, as



1 you know. I guess my concern is that a lot it comes from the  
2 basin, from the L.A. area, reflects on the mountains and comes  
3 back into our area.

4 What suggestions, or how can you help us in  
5 dealing with the particular problems, since we're actually  
6 having to pay the additional price in the Inland Empire,  
7 especially the San Bernardino area, based on where we're  
8 located, next to the mountains?

9 We have a lot of smog alerts for a lot of our  
10 children that are impacted, so I'd like you to, hopefully, in  
11 your endeavors, to look at and address that, and to see how we  
12 might be able to commit by coming together in helping businesses  
13 in those areas that are being penalized for producing some of  
14 it, when in fact it's not all of their fault. Some of it's  
15 coming from the L.A. Basin.

16 MR. FRIEDMAN: I agree completely, Senator. I  
17 think the upwind areas, which are the sources of pollution, to  
18 the extent that they are affecting the downwind communities,  
19 there's got to be at least some administrative process or relief  
20 that can be provided.

21 I'm not sure that there's any district that, in  
22 and of itself, is absolutely free of being its own source of  
23 pollution. Everybody drives cars, and there are always some  
24 manufacturers and other things.

25 But where the pollution is disproportionate, and  
26 it's due to the prevailing winds and so forth, as in your area  
27 that you've described --

28 SENATOR BACA: Maybe we should put a big blower

1 and just blow it back into the L.A. area.

2 SENATOR KNIGHT: Just don't blow it over the  
3 hills.

4 CHAIRMAN BURTON: Senator Knight.

5 SENATOR KNIGHT: I was just going to ask if that  
6 was a similar situation between San Francisco and Sacramento, as  
7 far as the pollution blowing.

8 CHAIRMAN BURTON: Would you like to introduce any  
9 family members that might be present, so she might get back and  
10 cause mischief in the Governor's Office?

11 MR. FRIEDMAN: It would be my privilege to  
12 introduce my wife, my life partner, Lynn Shank.

13 CHAIRMAN BURTON: There have been some not  
14 necessarily complaints but comments that after certain people  
15 cook a lot of goulash, that the paprika wafts into the San Diego  
16 basin and causes a lot of eye problems.

17 Has that been coming from anywhere in your  
18 neighborhood?

19 MR. FRIEDMAN: When some of them are doing the  
20 cooking, it'll waft all if way over to Yugoslavia and below.

21 [Laughter.]

22 CHAIRMAN BURTON: Can we have just witnesses in  
23 support come identify themselves, please.

24 Good for you; you didn't bring a passle.

25 SENATOR HUGHES: I'd like to move the nomination.

26 CHAIRMAN BURTON: Moved by Senator Hughes, call  
27 the roll.

28 Opposition.

1           If he thought there was opposition, he would have  
2 brought a carload of people.

3           We appreciate what Senator Costa said in  
4 introducing Director Hannigan: brevity.

5           Call the roll, please.

6           SECRETARY WEBB: Senator Baca.

7           SENATOR BACA: Aye.

8           SECRETARY WEBB: Baca Aye. Senator Hughes.

9           SENATOR HUGHES: Aye.

10          SECRETARY WEBB: Hughes Aye. Senator Knight.

11          SENATOR KNIGHT: Aye.

12          SECRETARY WEBB: Knight Aye. Senator Lewis.

13          SENATOR LEWIS: Aye.

14          SECRETARY WEBB: Lewis Aye. Senator Burton.

15          CHAIRMAN BURTON: Aye.

16          SECRETARY WEBB: Burton Aye. Five to zero.

17          CHAIRMAN BURTON: Congratulations.

18          Next is Dr. Alan C. Lloyd, Chair of the State  
19 Resources Board.

20          You may proceed, Doctor.

21          DR. LLOYD: Good morning, Chairman Burton and  
22 Committee Members. I'm pleased to be here this morning as you  
23 consider me for confirmation for the Air Resources Board.

24          CHAIRMAN BURTON: I think Senator Sher wanted to  
25 make a brief introduction.

26          SENATOR SHER: Excuse me for my tardiness, sir.

27          Well, as Chair of both the policy committee and  
28 the Budget subcommittee with oversight jurisdiction over the Air



Resources Board, it's my pleasure to express my strong support for the confirmation of Dr. Alan Lloyd as the Chair of the Board.

Dr. Lloyd is a relative rarity in state government. He has spent his entire professional life, you might say, in training for this appointment. He most recently served as the Executive Director of the Energy and Environmental Energy Center for the Desert Research Institute at the University and community college system of Nevada Reno.

Previously, he was the Chief Scientist at the South Coast Air Quality Management District from 1988 to 1996, where he advised the district on scientific and technical research and development findings to further reduce air pollution. During his service at the district, my office worked closely with him in fashioning laws such as the California Clean Air Act in order to ensure that air pollution control was accomplished in a manner which had both industry and environmental support.

Dr. Lloyd has given numerous presentations to international audiences, focusing on the viable future advanced technology and renewable fuels, with attention to the urban air quality challenges that face California.

In summary, Dr. Lloyd is perhaps the best qualified Chair, both technically and politically, that the Board has had in many years. I urge the Committee to approve the confirmation.

DR. LLOYD: Thank you very much, Senator Sher, for that kind introduction. I've admired your legislative

1 career for many years, and I'm proud to have the opportunity to  
2 work closely with you.

3 With your permission, Mr. Chairman, I'd like to  
4 continue.

5 I'd like to introduce my wife, Diana, who is  
6 equally glad to be here this morning. Diana and I have made our  
7 home in California since we moved, immigrated, from Wales in  
8 1969, except for the past three years while I was at the Desert  
9 Research Institute in Reno. I know I speak for both of us when  
10 I say it is good to be back in California.

11 Being selected by Governor Davis for this  
12 important position is a tremendous honor and privilege. With  
13 the Senate's approval, I look forward to serving him and the  
14 people of California for the next several years.

15 I'm an atmospheric chemist by training, so I'm  
16 well prepared for the technical challenges of this position.  
17 Good science is absolutely crucial to what we do.

18 Let me say that my professional experiences to  
19 date have given me a fair amount of insight into the policy and  
20 political challenges facing the Air Resources Board. The South  
21 Coast Air Quality Management District, where I served as Chief  
22 Scientist for eight years, faced many of the same issues, and I  
23 learned a lot from my time there, both technically and  
24 politically.

25 Last week, I submitted a letter to the Committee,  
26 outlining my goals as Chairman of the Air Resources Board. In  
27 the short term, those are to implement the Governor's MTBE  
28 decision. We have several tasks to complete on this before the



1 end of this year, including a June hearing on gasoline labeling.

2 We need to develop peer relationships with my  
3 colleagues in State service so we can work through overlapping  
4 inter-agency issues.

5 I want to create a focus on community health and  
6 children's health at the Board, which I've already begun to do.  
7 And I think Professor Friedman reflected both he and my concern  
8 in that area.

9 We need to continue our business assistance and  
10 regulatory steamlining program so we can put the least burdens  
11 on the regulated community and still get the maximum possible  
12 benefit of the air quality rules.

13 Over the longer term, my goals are to stimulate  
14 technology advancement in all sectors, such as the Governor and  
15 the Air Resources Board are doing with the California Fuel Cell  
16 Partnership. This approach not only helps air quality, but can  
17 pay economic dividends in the state in the form of new jobs and  
18 investments.

19 I want to keep reducing emissions from vehicles  
20 and other mobile sources to the ultra low zero emission levels.  
21 We are way ahead on automobiles, but we need to focus some of  
22 the other categories.

23 I want to achieve an even higher level of  
24 scientific and technical excellence of the Board by bringing in  
25 outside experts more regularly, and do everything I can to help  
26 California's 35 local air pollution control districts to do  
27 their job effectively.

28 Since my appointment by Governor Davis on

1 February the 18th, I've had the opportunity to talk with many of  
2 you and other Members of the Legislature about your goals and  
3 concerns. That has been extremely informative, and it's a  
4 dialogue I hope to continue during my tenure as Chairman of the  
5 Air Resource's Board.

6 There is a wealth of talent in this state in both  
7 the public and private sector. My three years away from  
8 California makes me have an even greater appreciation for this  
9 fact.

10 In addition, there is a deep commitment to air  
11 quality issues throughout our society. I must say, this makes  
12 the job of protecting public health much easier and far more  
13 gratifying. I'm honored to have so many qualified people as  
14 partners in this effort.

15 Those are my formal remarks. I'd be open to  
16 questions.

17 CHAIRMAN BURTON: Senator Lewis.

18 SENATOR LEWIS: Dr. Lloyd, welcome to the  
19 Committee.

20 DR. LLOYD: Good morning, Senator.

21 SENATOR LEWIS: You were the Chief Scientist at  
22 South Coast for eight years. One of the things, at least  
23 occasionally sometimes we learn from past mistakes.

24 I was wondering, during the eight years in that  
25 position, did you witness any what you now in retrospect would  
26 consider are regulatory mistakes that were made at the South  
27 Coast District?

28 DR. LLOYD: In all honesty, Senator, I

1 witnessed -- one thing I witnessed first-hand, I learned a lot  
2 from, and that is the power of the Legislature, and the need to  
3 respond to the people and to the legislative branch.

4 I think one of the areas that I felt -- again,  
5 I'm a scientist, so I like to be able to quantify things where  
6 ever possible -- and I did find that our mandatory ride sharing  
7 program was one which was not paying dividends. It was mostly a  
8 congestion management issue. So, that's one where I thought  
9 probably it was not the best way to go.

10 I also remember a poll conducted in your county  
11 which the people basically are saying, "We're willing to pay for  
12 some advanced technology, we're willing to clean up the air, but  
13 let us have the freedom; don't dictate our life styles."

14 CHAIRMAN BURTON: The people in Orange County  
15 said they're willing to pay for something?

16 [Laughter.]

17 SENATOR LEWIS: Anything but your level of  
18 taxes.

19 I wanted to ask you, recently Honda has announced  
20 that they're discontinuing the manufacture of their zero  
21 emission vehicle.

22 DR. LLOYD: EV Plus.

23 SENATOR LEWIS: That's right.

24 In your opinion, is that in violation of any kind  
25 of a contractual arrangement with ARB?

26 DR. LLOYD: We are very concerned and, I think,  
27 quite upset about the announcement by Honda. However, it did  
28 not violate an agreement.



1                   There was an agreement with the major  
2 manufacturers that they would produce a percentage of vehicles  
3 ahead of 2003, based on their sales in California. I think, as  
4 I recollect, Honda's number was around 270-280. They actually  
5 produced 300, so they actually produced these vehicles early, so  
6 they fulfilled that commitment.

7                   But on the other hand, we were very concerned  
8 about the message it sent to the community, to our efforts to  
9 clean up the air, and to those people making significant  
10 investments in electric vehicle technology. So as a result, we  
11 are going to be visiting Honda. We're in discussions with them  
12 and also the other manufacturers to make sure that the  
13 agreements under the Memorandum of Understanding have been  
14 fulfilled, and they are making progress, and a serious  
15 commitment to the 2003 requirements.

16                  SENATOR LEWIS: In view of the Honda decision,  
17 what does that tell you about the viability of the 2003 date,  
18 goal?

19                  DR. LLOYD: I think at this time it tells me in  
20 one way that they were early in their commitment, so they were  
21 able to produce electric vehicles which the customers really  
22 accepted. The people I know who've driven them, including  
23 myself, have been very pleased with that.

24                  I think on the other hand, Senator, I realize  
25 it's a challenge and certainly for some of the battery  
26 technology. As Professor Friedman said, we are having a  
27 technology review next year, and I can promise that we will have  
28 a thorough evaluation of the status of technology in that arena.

1           The good thing, however, is that we've seen  
2 tremendous advances in the electric vehicle drive train,  
3 aerodynamics, et cetera. We've seen the fuel cells. So, it is  
4 a whole family of vehicles now coming to the fore which do not  
5 completely rely on the range of the battery. As an example, we  
6 could have a hybrid battery fuel cell vehicle which would be  
7 zero emission. That's fine with us.

8           SENATOR LEWIS: Under current technology, what is  
9 the best range that can now be --

10          DR. LLOYD: Again, I think if you look at the  
11 pure electric vehicle as the battery electric vehicle, you run  
12 about 150 miles with the best batteries. If you look at a fuel  
13 cell vehicle, which can be zero emission, the ones that we saw  
14 here at the Capitol with the Governor a couple of months ago,  
15 they can get 300-350 miles range, and they're still zero  
16 emission vehicles.

17          SENATOR LEWIS: What will be the cost of those  
18 particular vehicles that you just referenced?

19          DR. LLOYD: I think as any early technology we've  
20 seen, as we've seen with high definition television, the cost at  
21 early introduction are very high.

22          And clearly, what we're hoping for, as the  
23 production comes up there, the cost will go down. Early on,  
24 they're going to be more expensive.

25          SENATOR LEWIS: Thank you.

26          CHAIRMAN BURTON: So, Honda had an agreement to  
27 sell so many of these cars by a certain date or produce them.  
28 They did it early and got out?



1 DR. LLOYD: They got out of their commitment --

2 CHAIRMAN BURTON: I understand that. They

3 fulfilled their commitment and got out. Does that say, like, to  
4 me, that it was economically unfeasible to be selling these  
5 cars?

6 In other words, if they were making a buck in  
7 doing it, they probably won't have gotten out.

8 Is there any reason why they discontinued the  
9 deal?

10 DR. LLOYD: I think, Senator, that they thought  
11 they fulfilled their obligation.

12 CHAIRMAN BURTON: I know that, but in other  
13 words, it was like, pay the five dollars for the parking ticket  
14 and get me out of here. And at least to me, the important thing  
15 is not that you'll meet the obligation and move on, but if the  
16 cars would have -- if there would have been a market, if they  
17 would have made a buck, they wouldn't have felt, "Well, gee,  
18 this is just something we have to do; this is the price of  
19 admission to the show."

20 DR. LLOYD: I will know more about that, Senator,  
21 when I have discussions with Honda. My expectation, however, is  
22 that at this time they were looking at what they did early on,  
23 and then looking at the 2003 requirements.

24 CHAIRMAN BURTON: It's kind of idle curiosity,  
25 but I'd be interested to know, say, they were able to do it, and  
26 I guess they figured this is going to be a pain in the neck for  
27 us; let's do it. It's like going to the dentist, get it done  
28 now and then we'll go do something else.

1 I would hope that maybe they got it out of the  
2 way now, and then they're going to move in, because I have some  
3 friends that they're re-doing the electric vehicle, natural gas  
4 vehicle, or riding a bicycle.

5 Do you know Ed Begley?

6 DR. LLOYD: Yes.

7 CHAIRMAN BURTON: Sunday, he rode his bike from  
8 Studio City to Malibu.

9 I would just think that it'd be interesting to  
10 know what their thought process was. In other words, whether  
11 they figured that this type of vehicle makes good business sense  
12 to do it, or it was just like the price of admission, and they'd  
13 just as soon written a check to the cancer fund and gotten out  
14 of it.

15 That's what it tells me if they met mark early  
16 and left, it meant it's just something we've got to do. Let's  
17 do it and get it over with.

18 DR. LLOYD: Senator, I hope to accomplish that in  
19 my discussions, and I will report back.

20 CHAIRMAN BURTON: Let us know.

21 Senator Baca.

22 SENATOR BACA: Thank you.

23 Alan, I have a couple of questions, one in the  
24 area that we've just been discussing on emissions. As you know,  
25 smog checks have been a problem. I don't know if it does fall  
26 under some of your jurisdiction or what suggestion you would  
27 have, especially as it impacts a lot of us that have older  
28 vehicles that are going there. It seems like the cost is always

1 high, and it's hard to regulate whether they do need the smog  
2 check in terms of the emission.

3           What can possibly be done, because that is a cost  
4 factor, and it continues to go up? And a lot of seniors and  
5 others are afraid, like anything else, because they're always  
6 asked to repair their vehicle for something else that it doesn't  
7 really need, and yet, what impact does it really in the air  
8 emission that the car may be producing, or not, to comply?

9           Is there any suggestions or ideas that you're  
10 looking at in reference to what can be done there, or should we  
11 even look at a centralized station where we go that we can  
12 trust, that they're actually going to give us exactly what we  
13 need and fix what needs to be done.

14           DR. LLOYD: Senator Baca, I'm pleased you brought  
15 that up. It's a very tough issue, and as we've seen in the  
16 debate in the Legislature in the last few days, I think there  
17 has been some help to some of the lower income people to provide  
18 some additional benefit.

19           But overall, I think, one of my concerns in  
20 coming into this position is to look at smog check to see what  
21 emission reduction it's getting. And the base program seems to  
22 be doing reasonably well.

23           The enhanced program is falling far short.

24           So, one of my goals as Chairman is to work with  
25 as many people, including outside experts, to come in and  
26 convene a group to look at how we address this issue. To me, in  
27 these days of the technology, there has to be a better way, a  
28 more effective way, a less burdensome way, of accomplishing the



1 emission reductions.

2 We're putting a lot of faith in the on-board  
3 diagnostics tool for newer vehicles. I think that's going to be  
4 a tremendous help and, hopefully, get away from that.

5 SENATOR BACA: Right. We can't afford to buy a  
6 new vehicle every time just to make sure that it passes the smog  
7 check.

8 DR. LLOYD: That's why I think one of the things  
9 we're going to try to do is to pay more attention to the vehicle  
10 as it ages in how we clean up those emissions, how we help the  
11 people clean up those omissions.

12 I don't have any easy answer at this time. It's  
13 a tough job, but I do commit to trying to find a better way of  
14 cleaning up those emissions.

15 SENATOR BACA: Another question. In our area,  
16 the Inland Empire, has a trucking industry that's moving into  
17 that area, so diesel fuel does create a lot of problems in the  
18 area. Hopefully, we can work in hand to also help in that area.

19 Do you have any suggestions or ideas in terms of  
20 dealing with the trucking industry as it pertains to diesel fuel  
21 emission?

22 DR. LLOYD: Again, Senator, that's -- the whole  
23 diesel issue is a very challenging program for us. I think we  
24 want to work very closely with the trucking industry.

25 As you know, since diesel been identified as a  
26 toxic air contaminant, it's our job to protect the general  
27 public from exposure.

28 On the other hand, I'm very heartened that there

1 are significant technical improvements under way so we can  
2 reduce exposure to diesel particulates.

3 We understand fully that we're not intending to  
4 ban diesel fuel. They play a vital part in our economy with the  
5 trucking and the agricultural area.

6 On the other hand, we need to pay more attention  
7 to cleaning up their emissions so that people can actually go  
8 about their business, and yet, not be subjecting the general  
9 population to significant toxic air contaminants.

10 SENATOR BACA: As I asked Hugh earlier, the  
11 recent research indicates that air pollution is found higher and  
12 concentrated in lower income and minority areas. This pollution  
13 arises from waste incinerators, chemical plants, freeways, and  
14 farm pesticides.

15 Do you have any ideas to improve the quality in  
16 low income areas?

17 DR. LLOYD: That's an area that I'm also putting  
18 specific focus on at my office. In fact, I've brought on a  
19 community health advisor to give more attention to community  
20 health, to see where the cause of those pollutants are, what the  
21 concentrations are, and to design programs there.

22 We are going to be working not only to understand  
23 the problem, but also to try to curtail those emissions.

24 Of course, our programs on curtailing motor  
25 vehicle emissions, both in the heavy duty and the light duty, is  
26 also going to play into that very heavily.

27 SENATOR BACA: Finally, as you know, we get most  
28 of the bad air from the L.A. Basin area that hits our mountain,



1 reflects back in our area. Hopefully, you could look at helping  
2 our area.

3                   What are you committed to do to basically relieve  
4 not only the business people, but the community in that area  
5 because we do have a lot of smog alerts that impact our children  
6 in the Inland Empire based in the that area. We are not  
7 creating it; it's created out of the L.A. area. Hopefully, you  
8 can look at developing a plan that will relieve not only the  
9 business in that area, but the community in terms of the air  
10 quality there?

11                   DR. LLOYD: Senator, that's a very important  
12 issue. Having spent the first six years of my time in  
13 California in Riverside, and for years Los Angeles saying,  
14 "There is no pollution moving east," I'm very sympathetic to  
15 that issue.

16                   We've conducted many studies over the years to  
17 demonstrate this transport in various parts of California, and  
18 particularly in South Coast, so we are now looking at technical  
19 ways in which we control the emissions upwind, which we're  
20 doing, as well as in your area, but at the same time  
21 administratively looking at ways in which we can recognize that,  
22 in fact, a lot of your pollution is due to the transported  
23 pollutants from upwind areas. So, we're trying to give you  
24 recognition for that transported part.

25                   On the other hand, of course, we are also  
26 encouraging all the 35 air pollution control districts in the  
27 state to curtail their local emissions as well as looking at the  
28 transport side.

1 SENATOR BACA: Thank you.

2 Move the nomination.

3 CHAIRMAN BURTON: Any witnesses in support  
4 identify themselves, please.

5 MR. ROSS: Mr. Chairman and Members, Tommy Ross,  
6 Southern California Edison.

7 For the sake of brevity, I'll fold up my  
8 statement and just say that we support his confirmation.

9 MS. SPELLISCY: Good morning, Mr. Chairman and  
10 Members. Sandra Spelliscy with the Planning and Conservation  
11 League, pleased to support the nomination.

12 MR. GUALCO: Mr. Chair and Members, Jack Gualco  
13 on behalf of the California Council for Environmental Economic  
14 Balance in support of Dr. Lloyd.

15 MR. WEINER: Mr. Chairman and Members, Peter  
16 Weiner, Paul, Hastings, Janofsky and Walker, and we represent  
17 various manufacturers and regulated entities in support of  
18 Dr. Lloyd.

19 MR. CAVES: Joe Caves on behalf of the Union of  
20 Concerned Scientists, happy to have such an eminent scientist in  
21 this position.

22 MS. MALINOWSKI-BALL: Julie Malinowski-Ball,  
23 representing the California Electric Transportation Coalition  
24 and the Independent Energy Producers Association.

25 We're very excited about this appointment and  
26 look forward to working with Dr. Lloyd in the future.

27 MS. HATHAWAY: Janet Hathaway, representing the  
28 Natural Resources Defense Council.

1                   Very honored to have such a great person in this  
2 position.

3                   MR. WHITE: John White, representing the Sierra  
4 Club and the Clean Power Campaign.

5                   And I'm just thrilled to be here for my friend,  
6 Alan. Thank you.

7                   MR. CARMICHAEL: Good morning, Mr. Chairman and  
8 Members of the Committee, Tim Carmichael, the Director of the  
9 Coalition for Clean Air based in Los Angeles.

10                  Happy to support the nomination and confirmation  
11 of Dr. Lloyd.

12                  CHAIRMAN BURTON: Any opposition, representative  
13 of the Coalition for Dirty Air.

14                               [Laughter.]

15                  CHAIRMAN BURTON: There was one question that  
16 came from one of our minority staff. They were wondering if in  
17 your youth back in Great Britain if you ever were a soccer  
18 hooligan?

19                  DR. LLOYD: Actually, I was a rugby player. I  
20 think the saying there was that rugby was a hooligan's game  
21 played by gentlemen, and soccer was, I guess, a gentleman's game  
22 played by hooligans.

23                  CHAIRMAN BURTON: You did introduce your family.  
24 Moved by Senator Baca, call the roll.

25                  SECRETARY WEBB: Senator Baca.

26                  SENATOR BACA: Aye.

27                  SECRETARY WEBB: Baca Aye. Senator Hughes.

28                  SENATOR HUGHES: Aye.



1 SECRETARY WEBB: Hughes Aye. Senator Knight.

2 SENATOR KNIGHT: Aye.

3 SECRETARY WEBB: Knight Aye. Senator Lewis.

4 SENATOR LEWIS: Aye.

5 SECRETARY WEBB: Lewis Aye. Senator Burton.

6 CHAIRMAN BURTON: Aye.

7 SECRETARY WEBB: Burton Aye. Five to zero.

8 CHAIRMAN BURTON: Thanks. Congratulations.

9 DR. LLOYD: Thank you very much.

10 SENATOR LEWIS: Mr. Bob Hight, position of  
11 Director of the Department of Fish and Game.

12 CHAIRMAN BURTON: Mr. Chairman, Members, it  
13 really is a --

14 SENATOR LEWIS: Would you please introduce  
15 yourself for the record.

16 [Laughter.]

17 CHAIRMAN BURTON: John Burton, representing the  
18 Third Senatorial District.

19 It really is a pleasure for me to introduce Bob  
20 Hight. I met Bob Hight many years ago when he was the chief  
21 counsel of the State Lands Commission, when our former  
22 colleague, the late Ken Corey, was State controller.

23 I had the opportunity to work with Bob both in a  
24 governmental capacity, but also when I was in a private practice  
25 of law in a professional capacity.

26 I've always found him to be the type of person  
27 that understood the nature of what a, shall we say in the best  
28 term of the word, a bureaucrat was, that they had a

1 responsibility to the public who paid their taxes, that if there  
2 was a problem, you gave him the information; he would come back  
3 to you with an answer. It may not always be the answer you were  
4 looking for, but it would be an answer that would lay out the  
5 facts, lay out why A, B or C had to happen, and that was it.

6 For those of us who have had to deal with  
7 governmental agencies, there's nothing more frustrating than  
8 asking the question and getting the run-around.

9 I'll just briefly list, he is supported in this  
10 position for Fish and Game, which, why he took the job, shows a  
11 tremendous loyalty, I think, to the Governor, who also worked  
12 with him when the Governor was Controller, but he has all of the  
13 environmental groups.

14 I'd like to go down the list of industry groups:  
15 California Building Industry Association, Cattlemen's  
16 Association, Dennis Carpenter who represents industry people,  
17 Jack Gualco who represents industry people, the Kern County  
18 Water Agency, Northern California Water Association. And to try  
19 to get Tim Leslie's support, The Regional Council of Rural  
20 Counties, as well as the Western States Petroleum Association,  
21 and the Pacific Merchants Shipping Association.

22 I think that's an indication, again, of the fact  
23 that people respect Bob's knowledge, but also his availability  
24 and his willingness, when problems are brought to him, he  
25 understands. I think the reason that he does understand is that  
26 he did work under elected officials -- Ken Corey, Gray Davis --  
27 who understood that part of public service is serving the  
28 public, and whether it's a public official or a member of the



1 public, contacts an agency for information. You get them that  
2 information, and again, it may not be what you wanted, but it  
3 will be what is.

4 So it's with great pride that I recommend to you  
5 for the Director of Fish and Game Robert C. Hight.

6 SENATOR LEWIS: Thank you very much.

7 Mr. Hight.

8 MR. HIGHT: Thank you, Mr. Chairman and Members.

9 It's a pleasure to be here before you today to  
10 answer questions regarding my qualifications for the Director of  
11 the Department of Fish and Game. I'm extremely pleased and  
12 honored to be appointed by the Governor.

13 I give you a commitment as I sit here that I will  
14 be responsive, as Senator Burton indicated, to all of your  
15 questions and needs. And it's an honor to be appointed, and I  
16 will work diligently to preserve the natural resources that the  
17 people of California would bestow upon me.

18 I had the opportunity to meet with all of the  
19 Members in the last week and spend extensive time discussing  
20 issues. I'd be happy to answer any questions.

21 CHAIRMAN BURTON: Senator Lewis.

22 SENATOR LEWIS: Thank you.

23 I was curious whether the administration, with  
24 regard to the Endangered Species Act, are you going to favor the  
25 more traditional species-by-species approach, or kind of the  
26 ecosystem, more general ecosystem approach as envisioned by the  
27 NCCP program?

28 MR. HIGHT: I'm in favor of the NCCP concept

1 ecosystem restoration.

2 I believe that in order to adequately address all  
3 of the species that we're dealing with in the state, we have to  
4 look beyond just a species-by-species approach. I think the  
5 things that are happening in the southern part of the state --  
6 Riverside, Orange County -- in the NCCP approach, and the same  
7 thing that is happening in the Bay-Delta with the CAL-FED, is an  
8 adequate -- is a wonderful example of how we should deal with  
9 the future.

10 It also helps us to deal with future threatened  
11 and endangered species, and hopefully, we don't get to that  
12 point if we have adequate areas to preserve them.

13 CHAIRMAN BURTON: I'd like to ask, and one of  
14 them's kind of irrelevant, but has the Commission taken a  
15 position on the fish wildlife versus fish and game bill yet?

16 MR. HIGHT: No.

17 CHAIRMAN BURTON: The Governor will probably be  
18 against it; it costs money to change.

19 Can you comment on the Lake Davis and the  
20 northern pike?

21 MR. HIGHT: Yes.

22 CHAIRMAN BURTON: Do you have any idea of what  
23 happened?

24 MR. HIGHT: No is the easy answer.

25 Two theories. One, that there's a few pike who  
26 survived the poisoning. Everybody tells me that's probably  
27 remotely possible but unlikely.

28 The other option is, somebody else planted them

1 there.

2 We have been electro-shocking the lake for the  
3 last two weeks and we found one pike. So, at least it indicates  
4 there's not a lot of pike there, and we haven't found anything  
5 in the last two weeks.

6 Also, during Labor Day [sic], no fishermen found  
7 any pike.

8 When we heard the unfortunate news, the first  
9 thing I did was call the supervisors and the city council and  
10 said, "We have a problem, and I'm here to work with you to  
11 figure out how to resolve this issue." There's a town hall  
12 meeting there tonight.

13 I wish I had a better answer, but you know, we're  
14 going to work the thing through with the community to try to  
15 resolve it.

16 CHAIRMAN BURTON: I think the reason I even pay  
17 attention to Lake Davis is that I served with Pauline; although  
18 the lake was named after her late husband, Lester.

19 They were showing a meeting, and the local people  
20 seemed to be a lot happier with the response of the Department  
21 to this problem than they were with the earlier problem, because  
22 at least they were all brought in.

23 I guess nobody would know why somebody did that.

24 What's the difference between northern pike and  
25 the wall-eyed pike; do you know?

26 MR. HIGHT: I'm sorry, I don't know.

27 CHAIRMAN BURTON: Just want people to know I'm  
28 from the Midwest, and we had wall-eyed pike. I guess they were



1 pike with big eyes out the side.

2 Senator Hughes.

3 SENATOR HUGHES: When we had this discussion  
4 about the recent pike being found, I asked you, what do you  
5 think happened? You said maybe someone sabotaged the lake and  
6 dropped one in, because some fishermen like to have excitement.

7 How do you regulate that to see that that kind of  
8 sabotage doesn't go on, that kids would do it, or a real  
9 fisherman would do it because they know what really excites the  
10 other fish. So, how do you police something like that?

11 That's a wild thing to police.

12 MR. HIGHT: Well, it's a very difficult task.  
13 Last year, the Legislature passed legislation to have a severe  
14 fine for people who do it.

15 In addition, we have gone door-to-door in the  
16 city of Portola to see if anybody saw anything suspicious. I've  
17 tried to educate the people about the harm.

18 Hopefully, the education process, getting the  
19 people involved to watch the lake, that's kind of the best  
20 policing process that we can do.

21 SENATOR HUGHES: Are you planning any PSAs,  
22 anything like that out to the public so that they would be  
23 cautious and would report anyone they see throwing anything into  
24 the waters?

25 MR. HIGHT: That's an option that we'll certainly  
26 look at.

27 You know, we did the door-to-door, and that  
28 seemed to work very good. So, we need to follow-up on that.

1                   SENATOR HUGHES:  Alright, thank you.

2                   CHAIRMAN BURTON:  Senator Baca.

3                   SENATOR BACA:  Just a quick question.  You  
4 touched baste.

5                   One of the areas in Southern California that has  
6 impacted us is the Endangered Species, especially as it pertains  
7 to the saddle-loving Delhi Fly in the immediate area that has  
8 stopped a lot of growth in the immediate area.

9                   What plans do you have to deal with the problem  
10 as it pertains to both federal and state with the fly that's  
11 listed or should be delisted?

12                   MR. HIGHT:  The fly is a federally listed  
13 species, and the state does not list flies and butterflies.

14                   But I think the way to deal with the problem is  
15 through the NCCP ecosystem approach, where you provide adequate  
16 habitation for them.

17                   The entire endangered species process listing is  
18 subject to existing regulation and existing law.  And I would  
19 hope that through communication, discussions, that solutions  
20 could be found.

21                   SENATOR BACA:  Good.  I hope we come up with  
22 definition of adequate, because adequate could mean a large  
23 area, which I've seen next to medical hospital that's weeds and  
24 everything are growing.  Nothing is done there.  It looks so bad  
25 in the immediate area.

26                   So hopefully, they can define what is adequate in  
27 terms of preserving, if we're going to preserve an area to deal  
28 with the fly, or kangaroo rat, or anything else in our immediate



1 area.

2 MR. HIGHT: The NCCP process, which is a little  
3 rigorous, but I think validly so, has solutions at the end that,  
4 hopefully, define adequate or more than adequate, best  
5 preservation.

6 SENATOR BACA: Thank you.

7 CHAIRMAN BURTON: Any other questions?

8 Moved by Senator Baca. Call the roll.

9 Do you want to introduce your family?

10 MR. HIGHT: Yes, my wife Mary is here, without  
11 whose support I wouldn't venture down this questionable road.

12 CHAIRMAN BURTON: Witnesses in support, come  
13 forward and identify yourselves and your agency.

14 Without objection, Mr. Hight's staff can take  
15 pictures.

16 MR. PRICE: Mr. Chair, Pete Price.

17 I'm here representing today the Natural Resources  
18 Defense Council, League for Coastal Protection, Center for  
19 Marine Conservation, as well as United Anglers of Southern  
20 California, all of whom strongly support Mr. Hight.

21 MR. GUALCO: Mr. Chair and Members, Jack Gualco  
22 on behalf of industry clients as well as agriculture and water.

23 I'd like to say the Save the New Delhi Sandfly  
24 Committee, Senator Baca, but unfortunately not, in support.

25 But I want to talk about one recent  
26 accomplishment by the Director. He was able to pull disparate  
27 interests together on the Kings River to come up with an  
28 adaptive management plan that has brought together the interests

1 of irrigated agriculture, sport fishermen, and people concerned  
2 about the flows of the River. And the Director deserves to be  
3 congratulated for that. It's quite a victory and one supported  
4 by the entire Valley Delegation.

5 We urge your support of his confirmation.

6 MR. GARDNER: I'm Dave Gardner, President of the  
7 California Fish and Game Wardens Protective Association.

8 On behalf of the wardens, men and women of  
9 California, we are pleased and privileged to recommend for  
10 confirmation Robert Hight as Director of the Department of Fish  
11 and Game, and for him to lead us into the 20th Century.

12 MS. SADLER: I'm Lynn Sadler with the Mountain  
13 Lion Foundation, and with the other 98-and-a-half percent of the  
14 state population that does not represent hunting and fishing,  
15 and whom Mr. Hight has recognized still, nonetheless, has a very  
16 important stake in the protection of our natural resources.

17 And don't worry. We don't agree on everything.  
18 We're just most pleased that he has recognized that we're all  
19 going to have work together to protect our natural resources.

20 We support his confirmation.

21 MR. MERAL: Jerry Meral with the Planning and  
22 Conservation League.

23 We strongly support Mr. Hight's nomination.

24 MR. MCCALL: John McCall, National Audubon  
25 Society in strong support.

26 MR. CURTIN: Danny Curtin, California State  
27 Council of Carpenters in support of the nomination.

28 Thank you.

1 MR. MACOLA: Mr. Chairman, Members, Stephen  
2 Macola on behalf of Moulton Niguel Water District in  
3 support.

4 MR. CAVES: Joe Caves, on behalf of the Nature  
5 Conservancy strongly in support.

6 CHAIRMAN BURTON: Witnesses in opposition?  
7 Call the roll.

8 SECRETARY WEBB: Senator Baca.

9 SENATOR BACA: Aye.

10 SECRETARY WEBB: Baca Aye. Senator Hughes.

11 SENATOR HUGHES: Aye.

12 SECRETARY WEBB: Hughes Aye. Senator Knight.  
13 Senator Lewis.

14 SENATOR LEWIS: Aye.

15 SECRETARY WEBB: Lewis Aye. Senator Burton.

16 CHAIRMAN BURTON: Aye.

17 Hold the roll open.

18 Congratulations, Bob.

19 MR. HIGHT: Thank you very much.

20 SENATOR LEWIS: Next is Marcy Saunders, Chief of  
21 the Division of Labor Standards Enforcement.

22 Good morning, Senator Speier.

23 SENATOR SPEIER: Good morning, Senator Lewis.

24 Mr. Chairman and Members, it's my great privilege  
25 to introduce to you today the nominee for the State Labor  
26 Commissioner, Marcy Saunders.

27 In many respects, this appointment is historic.  
28 Ms. Saunders has succeeded where others have failed. She is the



1 first woman to be elected in the nation as the business manager  
2 of the Building and Constructions Trade Council.

3 To show how persuasive and effective she is, one  
4 of the unions within the Building and Construction Trades was  
5 not supportive. In fact, it was the Plumbers Union. But she  
6 didn't stop there, and before all was said and done, the head of  
7 the Plumbers Union proposed marriage to her. I think that's  
8 pretty effective.

9 [Laughter.]

10 SENATOR SPEIER: She also negotiated the first  
11 ever Project Stabilization Agreement in California for the \$2.6  
12 billion expansion at San Francisco International Airport.

13 She reflects a great American success story, from  
14 flight attendant to her position as the Business Manager of the  
15 Building and Construction Trades.

16 She's good for labor and she's good for business.  
17 I can speak to that because for the two years that I was not a  
18 Member of this Legislature, I worked in the private sector for a  
19 software game company that was in the process of expanding and  
20 building new office space in San Mateo County, in fact, an  
21 entire campus. And there were, as you would imagine, scuffles  
22 and problems that arose over labor issues.

23 And in my role, which was then different, I found  
24 working with Ms. Saunders was an extraordinarily positive  
25 experience, as did the other members of the company.

26 She's taken charge of this Division, demanding  
27 accountability and enforcement, and zero tolerance for even the  
28 appearance of impropriety. I think she's going to do a

1 remarkable job and continue her legacy of firsts.

2 So, I would highly recommend her as the new Labor  
3 Commissioner.

4 SENATOR LEWIS: Thank you very much.

5 Assemblyman Papan, are you here on this matter as  
6 well?

7 ASSEMBLYMAN PAPAN: I am.

8 Senator Lewis, I think the Senator has covered  
9 much of what I would have said about the lady.

10 CHAIRMAN BURTON: Why don't you have a seat.  
11 You're here as a representative of the business caucus of the --

12 ASSEMBLYMAN PAPAN: A little of that.

13 As a moderate Democrat who tries to bring all  
14 sides together, I think she would be a good candidate for the  
15 position she's seeking, and I have no reservations, Senator  
16 Lewis.

17 SENATOR LEWIS: Speaking of endangered species,  
18 moderate Democrat.

19 [Laughter.]

20 ASSEMBLYMAN PAPAN: So, I would recommend her  
21 highly, and I would respectfully ask that she be favorably  
22 considered for the position.

23 Thank you, Mr. Chairman.

24 SENATOR LEWIS: Thank you.

25 Ms. Saunders, please.

26 MS. SAUNDERS: First of all, Senator Lewis and  
27 Senator Knight, I would like to thank you for reconsidering my  
28 coming back on to the agenda once you realized that there might



1 be a personal dilemma for me if I had not been able to be here  
2 today. I want to thank you for that.

3 SENATOR LEWIS: You're welcome. You can thank  
4 Senator Burton for breaking our arms.

5 MS. SAUNDERS: I want to also thank both Senator  
6 Speier and Assemblyman Papan for their introductions.

7 I want to thank you for the opportunity to come  
8 before you today and to be able to tell you just a little bit  
9 about and what I hope to see happen with DLSE in the near  
10 future.

11 In my 13 years With the Building and Trades  
12 Council down in San Mateo County, I feel that I was pretty  
13 successful in forging alliances and building consensus between  
14 labor, business, and elected officials for the economic  
15 betterment of our community. It was one of those things that  
16 Governor Gray Davis recognized in me, that I was a consensus  
17 builder, and would hope that I would take this throughout the  
18 state, and that is my plan.

19 I gained a good reputation among both labor and  
20 business and gained great credibility. Because of that, I was  
21 asked to sit on many business-oriented committees. Of course, I  
22 was asked to do that for two reasons. I was a believer in  
23 economic viability, but they also wanted my opinions on how we  
24 could work together as business and workers in the community so  
25 that everybody could win.

26 I will admit that I am known as being tough, but  
27 I'm also known as being very fair. I think that those are two  
28 qualities that the Labor Commissioner must have when she's

1 enforcing the labor laws.

2 I have a great deal of background in wage and  
3 hour laws, and I think that I can hit the ground running, and I  
4 think I already have.

5 As far as the near future for DLSE, again, I'm  
6 going to bring up the fact that I like to build consensus and  
7 build partnerships, and I don't think that that's always  
8 happened in DLSE between the workers and business.

9 With that in mind, I'm going to be putting  
10 together advisory committees for the different industries that  
11 we cover within the Department. On those committees will be  
12 business people, contractors if needed, and labor  
13 representatives, and also advocates for workers. We will sit  
14 down together. We will look at the laws. We will learn how to  
15 interpret the laws together, and we'll work to move forward to  
16 enforce the laws.

17 I have found just in the few months that I've  
18 been on this job that business people that I have met with are  
19 just as concerned about the enforcement of labor laws as are  
20 workers. I think that the problem being that you have most  
21 businesses out there that do abide by the laws, and most workers  
22 that also do what they're supposed to do.

23 However, we do have those egregious businesses  
24 out there, and those are the ones that are undercutting our good  
25 businesses and are hurting our workers to get a competitive  
26 edge. And I want to stop that. I want to be able to protect  
27 both business and the workers for the economic viability of the  
28 state.

1 I also would like to do more educational  
2 outreach. The laws within my Division are changing  
3 continually. I don't think people, most people, necessarily  
4 want to break the law; I'm not sure that they always understand  
5 the law. So, I feel that if we go out and do more educational  
6 outreach, both the workers and businesses, that will save us a  
7 lot of problems.

8 I'm also looking to hire more bilingual people  
9 because so many of the people that we represent, such as the  
10 agricultural industry and the manufacturing industry, I think  
11 it's much more difficult for them to be able to communicate with  
12 us unless we have more bilingual people.

13 I'm also looking at public information. Our  
14 public information is not very good. I've taken one of my  
15 assistant chiefs, and she is working exclusively on upgrading  
16 public information so we are more accessible to the public.

17 I'm also looking to do some streamlining within  
18 the Division so that we can get more bang for the buck.

19 In the long run, I guess really what I want to  
20 say is that it is my job to make sure that the labor laws in  
21 this state are enforced. And I will make sure that that is  
22 done. I'm hoping to do that to a certain extent in a  
23 partnership, and if partnerships don't always work, I will tell  
24 you that I will aggressively go after the people that do not  
25 want to abide by the law.

26 My reasoning for that is pretty simple. If  
27 businesses aren't successful, then businesses can't hire  
28 workers. If workers aren't working, then workers can't spend



1 money. And if money isn't spent, then we have no economic  
2 viability in this state.

3 Thank you.

4 CHAIRMAN BURTON: Thank you, Mr. Chairman.

5 Just two questions. How did you go from MIUFA to  
6 the Building Trades?

7 MS. SAUNDERS: I was involved in a strike with  
8 TWA and Carl Eichon back in 1986.

9 CHAIRMAN BURTON: I remember it well.

10 MS. SAUNDERS: And my predecessor, who is in the  
11 room here today, Bob Gilmore, sort of noticed me, and asked me  
12 to come forward, and asked me if I would be interested in this  
13 job.

14 And my father, who was a contractor, I did  
15 understand construction. But I also understood more of what he  
16 really wanted me to do, and that was to get involved with the  
17 community and to let everybody know that organized labor isn't  
18 that bad.

19 So, that was how I got hired.

20 CHAIRMAN BURTON: The other question is, what is  
21 Linda Fluit doing these days, if anything?

22 MS. SAUNDERS: I really don't know. The last I  
23 heard from her was about two years ago, but I know she's not  
24 flying anymore.

25 CHAIRMAN BURTON: Still living down there in the  
26 County?

27 MS. SAUNDERS: Yes.

28 CHAIRMAN BURTON: That answers all my questions.

1 [Laughter.]

2 CHAIRMAN BURTON: I used to take that 5:45 a lot  
3 out of Dulles, so Linda and I flew many miles together.

4 SENATOR LEWIS: Ms. Saunders, I was wondering,  
5 given your strong union background, how can convince me that you  
6 can be somewhat objective in matters relating to labor law and  
7 unions?

8 MS. SAUNDERS: Well, again, Senator Lewis, you  
9 don't really know me. It's going to take a while for me to  
10 build up a reputation with you.

11 But I think if you look to some of the letters of  
12 support that came in on my behalf, you will see that there was  
13 really quite a large cross section of letters that came not only  
14 from organized labor. They also came from the business  
15 community. They also came from places like the Farm Bureau.  
16 They came from people that represent businesses.

17 So, I think that alone says that people feel that  
18 I can be pretty objective.

19 SENATOR LEWIS: Can you give me any example of  
20 any public policy that you have a difference with organized  
21 labor?

22 MS. SAUNDERS: No, I really can't.

23 SENATOR LEWIS: I wanted to ask you a couple of  
24 questions, maybe more than a couple, about the Project Labor  
25 Agreement that you negotiated with the San Francisco Airport.

26 First of all, how many non-union employees right  
27 now are being compelled to pay union fees or dues?

28 MS. SAUNDERS: That's a question that's very,



1 very difficult to answer because I have not seen any reports or  
2 surveys on the Airport since last January. And none of the  
3 surveys actually showed who was paying into -- who was paying  
4 union dues or weren't paying union dues.

5 The other thing that makes that a somewhat  
6 difficult question to answer is that within the Project Labor  
7 Agreement, we did change our union security clause. Whereby,  
8 instead of an employee having to pay union dues on the eighth  
9 day, we extended that to 30 days because we recognized that  
10 there would be quite a few contractors out there that would be  
11 doing jobs that would be less than 30 days.

12 So, it would be very, very difficult for me to be  
13 able to say, especially because we never know on any given day  
14 how many employees are actually working out there.

15 SENATOR LEWIS: Would I be right in suspecting  
16 that you'd have a similar answer to the question of the ratio of  
17 union to non-union employees working on this project, versus the  
18 local average on the projects?

19 MS. SAUNDERS: I can probably answer that  
20 question for you best by saying that within San Mateo County, we  
21 do approximately 80 percent of the construction work union. So,  
22 I think I could safely say that, with that in mind, it probably  
23 is working pretty much the same out at the Airport. Probably 80  
24 percent union to maybe 20 percent non-union.

25 SENATOR LEWIS: I understand that there is a  
26 court case that's been filed before the Supreme Court?

27 MS. SAUNDERS: Correct. It was heard on June  
28 7th.

1           SENATOR LEWIS: Oral arguments, I guess, that  
2 some of the litigants include the Bay Area Black Contractors  
3 Association, the Hispanic Contractors Association, the American  
4 Asian Contractors, and Northern California Minority Trade  
5 Council.

6           I've been told that since the PLA went into  
7 effect, that minority prime contractors awards have dropped by  
8 91 percent, and that women enterprises have dropped by 74  
9 percent.

10           Do these coincide with your understanding?

11           MS. SAUNDERS: No. I'm not really sure where you  
12 got those figures.

13           I can tell you that on any given day out at the  
14 Airport, minority contractors are about 25 to 30 percent of the  
15 work out there. So, that drop of 71 percent doesn't make a lot  
16 of sense because it is between 25 and 30 percent of minority  
17 contractors out at the Airport. That's pretty much the norm  
18 everywhere.

19           The one thing that I'm especially proud of  
20 because of this Project Labor Agreement is that on all the  
21 surveys that are done on a quarterly basis by the Airport, and  
22 that includes the one for the contractors, the workers out at  
23 the Airport are anywhere from 48 to 51 percent minority or  
24 women.

25           SENATOR LEWIS: If things are that rosy, why are  
26 all these groups litigants in the action?

27           MS. SAUNDERS: You know, I don't know. They  
28 haven't talked to me about it.

1           SENATOR LEWIS: One of the supposed advantages of  
2 the PLA Agreement was that there's an absolute guarantee against  
3 strikes. But I understand it wasn't too long ago the carpenters  
4 went out on strike, and although it was a very short-lived one,  
5 that it ended up costing about \$3 million.

6           Who should have to pay the \$3 million to  
7 reimburse for the increased cost of the project?

8           MS. SAUNDERS: Well, first of all, let me explain  
9 to you that that was not a strike. That was some disgruntled  
10 workers that went ahead and put up some pickets, which some of  
11 the workers did not understand was not a sanctioned strike.

12           Second of all, I'm not sure where the \$3 million  
13 amount came from, because it was my understanding in my  
14 conversations with the former head of the Airport, Lou Turpin,  
15 and now with John Martin, that if the Airport were to be closed  
16 down, it costs the Airport approximately \$1 million.

17           Thank God we had that Project Labor Agreement  
18 because we had mechanisms within that Project Labor Agreement to  
19 head into arbitration immediately, get it cleared up, and have  
20 just about everybody back to work to the second day.

21           As far as who pays for that, that is something  
22 that has to be decided through the Project Labor Agreement.

23           But understand that it was not the union that  
24 caused those pickets to go up. It was individual people.

25           SENATOR LEWIS: So, signs went up and people  
26 withheld services, but it wasn't a strike.

27           MS. SAUNDERS: I said it was not a not sanctioned  
28 strike, and it was not a strike because it was not a union that



1 went on strike. It was a group of people that put up pickets.  
2 There's a difference.

3 SENATOR LEWIS: Thank you.

4 Senator Baca.

5 SENATOR BACA: Marcy, first of all, I thank you  
6 for responding in reference to hiring additional bilingual  
7 individuals to deal with part of the problem. So, I commend you  
8 for taking that action.

9 Just one simple question. What do you think are  
10 the most important challenges facing DLSE at this time?

11 MS. SAUNDERS: I think our biggest challenge is  
12 that over the years, you know, we've lost a lot of our employees  
13 and our funding, which has not made it quite as effective.

14 The workers that we have in DLSE right now I  
15 think are very dedicated, very hard-working people. However,  
16 they don't have a lot to work with.

17 My goal is to be able to get this Division up and  
18 running to where it was 10 and 12 years ago, where we actually  
19 were going after the really egregious business people and  
20 contractors, and making sure that we protect all of our workers  
21 because where our funding has gone down approximately 25 percent  
22 in the last 10 years, we have an additional 3 million workers in  
23 the state that we have to protect. And of course, my thinking  
24 the way I do, in saying that we have to protect workers, but  
25 that we also have to protect businesses, then the only way we're  
26 going to be able to do that is by being able to prove to the  
27 Legislature that we're working and working hard so that they  
28 would be willing to maybe be able to give us a little bit more

1 money so we could hire a few more people.

2 SENATOR LEWIS: One additional question. Back in  
3 October of '98, the MWD announced that it was increasing their  
4 estimated cost for the East Side Reservoir Project by about \$220  
5 million. And they're the biggest PLA, I guess, in Southern  
6 California.

7 Do you have a rough idea when we enter into these  
8 PLA contracts, how much does that tend to drive up the cost of a  
9 project?

10 MS. SAUNDERS: Actually, it's my opinion that  
11 Project Labor Agreements don't cause projects to be more  
12 expensive. I think they're cost saving to a certain extent.

13 I'm not in a position to be able to discuss that  
14 project with you because that's not my project.

15 However, of the Project Labor Agreements that  
16 I've done, both private and public, I don't really think that I  
17 would be able to get businesses or developers to agree to these  
18 Project Labor Agreements unless I had a track record for them  
19 being cost effective.

20 I really don't have any idea. That it could have  
21 been -- some of it could have been the decision of the owners  
22 themselves to do changes, their own change orders in contracts.  
23 You see that happening out at the Airport. It's already 200  
24 million more than what it was supposed to be, but that's because  
25 of architectural changes, things like that.

26 SENATOR LEWIS: Senator Hughes.

27 SENATOR HUGHES: I'd just like to move the  
28 nomination.



1                   SENATOR LEWIS: Thank you.

2                   MS. SAUNDERS: Could I introduce my family?

3                   SENATOR LEWIS: I was just going to ask you to do  
4 that.

5                   MS. SAUNDERS: And I would like to have my family  
6 stand up, especially my father, Al Vacura, who flew all the way  
7 from Fairbanks, Alaska to be at this confirmation here this  
8 morning.

9                   My younger brother, Peter, who came all the way  
10 over from across the street where he's an engineer for  
11 Caltrans.

12                   And my wonderful husband of ten months, Gary  
13 Saunders, who's the Business Manager for the Plumbers and Steam  
14 Fitters Local 467, San Mateo County.

15                   And I'd also like to introduce all my friends who  
16 came to support me today.

17                   SENATOR LEWIS: We might give them an  
18 opportunity, or at least some of them, to introduce themselves.  
19 We have a pretty crowded room here, which tells me you probably  
20 have a fair number of people who'd like to testify on your  
21 behalf?

22                   MS. SAUNDERS: There's about five or six is all.

23                   SENATOR LEWIS: Then why don't we ask people to  
24 come up. She said five or six. Is this the new math?

25                   Senator Hughes has already moved the nomination.  
26 She has to leave, so I will ask as a courtesy that we open the  
27 roll and just call her name.

28                   SECRETARY WEBB: Senator Hughes.

1                   SENATOR HUGHES: Aye.

2                   SECRETARY WEBB: Hughes Aye.

3                   SENATOR LEWIS: Go ahead.

4                   MR. KELLOGG: My name is Jim Kellogg. I  
5 represent the United Association of Journeymen and Apprentices  
6 of the plumbing and pipe fitting industry for the United States  
7 and Canada.

8                   On behalf of our 300,000 members, we rise in  
9 support of Marcy. She has a track record of leadership  
10 positions where she has demonstrated her knowledge in labor law  
11 and labor issues. She understands and knows what Labor  
12 Commissioner's job is all about, and Marcy will bring integrity  
13 and credibility to this job, and this position will be an asset  
14 with her in it to this administration, this Legislature, and to  
15 you and me.

16                   I urge you to give unanimous support for Marcy  
17 before the entire Senate.

18                   And I would add one thing outside the labor  
19 issue, she doesn't like Diamond Lanes either.

20                   MR. BALGENORTH: I'm Bob Balgenorth, President of  
21 the State Building and Construction Trades Council.

22                   I'm really proud to say that all 200 unions that  
23 are affiliated with the Council have unanimously endorsed  
24 Marcy. There's a couple reasons for that. Marcy has done an  
25 outstanding job as the first woman to be Business Manager of a  
26 building trades council. She has built the respect of the  
27 community, of the public, and of all the unions that have worked  
28 under her.

1 I really think that you should recommend her  
2 unanimously. Thank you very much.

3 MR. RANKIN: Tom Rankin with the California Labor  
4 Federation. We strongly support the confirmation of Marcy.  
5 She's tremendously big job ahead of her. She has to rebuild a  
6 Division that's been cut by, as she said, at least 25 percent  
7 while the workforce has grown tremendously. And she's got a \$60  
8 billion underground economy to deal with, and she is the right  
9 person for the job.

10 She's got the experience. She's got the  
11 intellect. And she has the strength of character that it's  
12 going to take to be the chief law enforcement officer for labor  
13 law in California.

14 SENATOR LEWIS: Maybe we can start asking people  
15 to just name an organization.

16 MR. WINSTEAD: Joe Winstead, California State  
17 Pipe Trades Council.

18 We would like to rise in support of Marcy.  
19 She'll bring a lot of credibility and do a fine job for the  
20 state of California.

21 Thank you.

22 SENATOR LEWIS: A little too long.

23 Next.

24 MR. PERNELL: Robert Pernell, representing the  
25 California State Council of Laborers.

26 We are in strong support.

27 SENATOR LEWIS: Getting better.

28 Next.



1 MR. CURTIN: Danny Curtin, California State  
2 Council of Carpenters in support. We represent those renegade  
3 carpenters who were unauthorized in that wildcat strike.

4 Thank you.

5 MR. GORDON: Rich Gordon. I am a member of the  
6 San Mateo County Board of Supervisors, and am here representing  
7 the entire Board who supports this appointment.

8 Also, I'm the immediate past Chair of the Board  
9 of Directors of the Redwood City-San Mateo County Chamber of  
10 Commerce and can attest that this woman knows how to build  
11 cooperative relationships with business that make it a win-win  
12 situation for all of us.

13 MR. BROAD: Teamsters, Amalgamated Transit Union,  
14 Engineers and Scientists, Machinists, Hotel and Restaurant  
15 Employees, and Food and Commercial Workers in support

16 Barry Broad.

17 MS. TISSIE: I'm Adrienne Tissie. I'm the Mayor  
18 of the City of Daly City. I'm also a principal in a business  
19 called Bay Relations, which is a land-use consulting firm and  
20 public relations firm in San Mateo County.

21 Marcy has the intelligence, the integrity, and  
22 the endurance to perform this job. I want you to know that I  
23 have personally worked with her in the private sector with  
24 developers, and she's a fantastic negotiator. She'll be a true  
25 asset to this administration.

26 MR. LANHAM: Thank you. David Lanham, Operating  
27 Engineers, Local 12.

28 MR. WAGNER: William C. Wagner, Business Manager.

1                   SENATOR LEWIS: Perfect.

2                   Next.

3                   MR. STRAWBRIDGE: Scott Strawbridge, Executive  
4 Vice President, Mechanical Contractors Association, Northern  
5 California, Central California, and Southern California, a  
6 management group.

7                   We are here to support Marcy's nomination.

8                   MR. MONAGAN: Michael Monagan on behalf of the  
9 Sheet Metal and Air Conditioning Contractors and the Western  
10 Wall and Ceiling Contractors, privileged to support Marcy.

11                  MR. CARTER: Art Carter, representing the State  
12 Association of Electrical Workers and the Western States Council  
13 of Sheet Metal Workers Unions in support.

14                  SENATOR LEWIS: Thank you.

15                  Next.

16                  MR. BERNACCHI: Eddie Bernacchi, on behalf of the  
17 National Electrical Contractors Association. We're also in  
18 support of Marcy.

19                  MR. NACK: I'm William Nack. I'm the Business  
20 Manager for the San Mateo County Building Trades Council. I'm  
21 the person that left -- that took over from Marcy when she left.  
22 I can attest that she has a great reputation in the County for  
23 working with both labor and business.

24                  And we, on behalf of all of the affiliated  
25 unions, strongly support her appointment.

26                  SENATOR LEWIS: Thank you.

27                  Now let's hear from anyone in the audience that  
28 might either be opposed or have reservations they want to



1 express. Apparently none.

2 We have a motion. Please call the roll.

3 SECRETARY WEBB: Senator Baca.

4 SENATOR BACA: Aye.

5 SECRETARY WEBB: Baca Aye. Senator Hughes.

6 SENATOR HUGHES: Aye.

7 SECRETARY WEBB: Hughes Aye. Senator Knight.

8 Senator Lewis.

9 SECRETARY WEBB: Senator Burton.

10 CHAIRMAN BURTON: Aye.

11 SECRETARY WEBB: Burton Aye. Three to zero.

12 CHAIRMAN BURTON: Congratulations, Marcy.

13 [Thereupon this portion of the

14 Senate Rules Committee hearing was

15 terminated at approximately 10:55 A.M.]

16 --ooOoo--


CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 10<sup>th</sup> day of June, 1999.

  
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Shorthand Reporter



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SENATOR JOHN LEWIS, Vice Chair

SENATOR JOE BACA

SENATOR TERESA HUGHES

SENATOR WILLIAM KNIGHT

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

WADE TEASDALE, Consultant to SENATOR LEWIS

FELICE TANENBAUM, Consultant to SENATOR HUGHES

CHRIS BURNS, Consultant to SENATOR KNIGHT

MANNY HERNANDEZ, Consultant to SENATOR BACA

ALSO PRESENT

CHARLES H. CENTER, Member  
Industrial Welfare Commission

SENATOR HILDA SOLIS

BILL CAMP  
California Labor Federation, AFL-CIO

JOSE PEREZ  
California Hispanic Chambers of Commerce

GRISELDA BARAJAS  
Sacramento California Hispanic Chamber of Commerce

RAFAEL SANCHEZ, Finance Chairman  
United States Hispanic Chamber of Commerce

1 TIM CREMINS  
2 Operating Engineers

3 JOE WINSTEAD  
4 California Pipe Trades Council

5 MICHAEL MONAGAN  
6 California Sheet Metal and Air Conditioning Contractors

7 BRITTON McFETRIDGE  
8 State Building and Construction Trades Council

9 EDDIE BERNACCHI  
10 National Electrical Contractors Association

11 PETE CONATY  
12 State Association of Electrical Workers and Sheet Metal Workers

13 BOB HOUSTON  
14 Concrete Contractors Association

15 RUSTY AREIAS, Director  
16 Department of Parks and Recreation

17 SENATOR JIM COSTA

18 EDWIN F. LOWRY, Director  
19 Department of Toxic Substances Control

20 SENATOR MARTHA ESCUTIA

21 BILL CAMP  
22 California Labor Federation, AFL-CIO

23 JOHN GEOGHEGAN  
24 Private Citizen

25 PETER WEINER  
26 Environmental Technology Council

27 CRAIG COPELAN, President Elect  
28 Professional Engineers in California Government

SANDRA SPELLISCY  
Planning and Conservation League



1 JODY SPARKS  
2 Sierra Club of California

3 DAN AGUIRRE, President  
4 California Association of Professional Scientists

5 JANE WILLIAMS, Executive Director  
6 California Communities Against Toxics  
7 Coalition for Environmental Justice

8 GORDON HART  
9 Private Citizen  
10  
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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: Industrial Welfare  
Commission, Chuck Center.

Chuck, do you want to tell us a little bit  
about yourself and your qualifications on the Board?

MR. CENTER: Okay.

I thank you Mr. Chairman, Senators. I'm  
Chuck Center. I'm the Legislative Director of the State  
Council of Laborers.

This is a reappointment. I was appointed by  
the Governor to the Industrial Welfare Commission, went  
through a number of hearings on the eight hour day.  
Formerly a construction worker for twelve years in marine  
construction, I worked in management in retail for about  
six months for the K-Mart industry and then became --  
filled representing for the Operating Engineers, then  
became Director of the Foundation for Fair Contracting, and  
eventually became a lobbyist for the State Council of  
Laborers in November of 1990.

CHAIRMAN BURTON: Questions, Members of the  
Committee? Senator Lewis.

SENATOR LEWIS: Mr. Center, first of all,  
what is your position on Assembly Bill 60, dealing with  
overtime pay?

MR. CENTER: We have supported AB 60 with  
our organization.

SENATOR LEWIS: In the case of California

1 manufacturers, a lot of them have twelve-hour double shifts  
2 rights now. If this bill goes through, unless there's some  
3 kind of exemption, or something, to maintain maximum  
4 capacity, they'd have to go to eight-hour triple shifts,  
5 which could drive up costs significantly.

6 Question, how much better off are employees  
7 in California if manufacturers locate out of the state and  
8 take the jobs with them?

9 MR. CENTER: Well, I wouldn't think they  
10 would be better off if they lose their jobs, but prior to  
11 the elimination of the eight-hour day under the IWC last  
12 year, there was 12-hour shifts. The manufacturers just  
13 have to go to election within their employees.

14 I think that will still be available if AB 60, in  
15 what process it comes out of -- right now it's just in the  
16 Senate, and it's still a work in progress -- I think there'll  
17 still be election opportunities for the employees to choose  
18 alternative work shifts.

19 SENATOR LEWIS: I wanted to ask you about the  
20 minimum wage in California. Do you think it's adequate  
21 currently?

22 MR. CENTER: It's been raised. There was a  
23 number of hearings. Right now, I think it will probably be  
24 readdressed again by the Industrial Welfare Commission.

25 I think we need to look at both sides. It  
26 affects the employees as well as the employers. And  
27 really, I haven't made a decision whether it's adequate or  
28 not. We need to go through a hearing process, and through



1 that avenue, then decide if it's adequate or not.

2 I don't have a position on that right now.

3 SENATOR LEWIS: What about the fact that  
4 there are some local governments now that are promoting  
5 this concept of a living wage, a local living wage. Do you  
6 think that a local government -- city or county -- has the  
7 legal authority to impose that kind of a legal wage?

8 MR. CENTER: It's happened in localities,  
9 and I'm not sure if they've been challenged in court or  
10 not. I guess they do, because it's happened in a number of  
11 localities throughout the State of California.

12 SENATOR LEWIS: What's your thought on that?

13 MR. CENTER: We in our organization, we do  
14 support a livable wage. We think people should have a wage  
15 that's adequate for them to work and buy houses and cars in  
16 their area. We don't think that's a bad thing.

17 SENATOR LEWIS: But you just said you were  
18 undecided on whether or not the minimum wage should be  
19 raised or not, but now you're saying that you think that  
20 the livable wage ordinances that are passed with hire wages  
21 is a good thing?

22 MR. CENTER: Yes.

23 SENATOR LEWIS: Isn't that a little  
24 inconsistent?

25 MR. CENTER: If it's passed in a locale  
26 already, and I think there's input from both sides, it's  
27 taken by a vote of elected officials. I think that's a fair  
28 process.

1                   Our organization has supported that in  
2 localities.

3                   SENATOR LEWIS: Last question.

4                   You're currently the Director of the  
5 California State Council of Laborers?

6                   MR. CENTER: Yes.

7                   SENATOR LEWIS: One of your responsibilities  
8 is legislative affairs?

9                   MR. CENTER: That's correct.

10                  SENATOR LEWIS: Does that create any kind of  
11 a conflict of interest for you on some of your votes on the  
12 IWC?

13                  MR. CENTER: I don't think so. It didn't in  
14 the past when I was on the IWC under a different  
15 administration.

16                  I discussed that with the prior  
17 administration, this administration. We still support  
18 legislation or oppose legislation that affects our  
19 membership.

20                  SENATOR LEWIS: So, you've never abstained  
21 or recused yourself on any vote?

22                  MR. CENTER: No, I haven't.

23                  CHAIRMAN BURTON: Senator Baca.

24                  SENATOR BACA: Just a quick question.

25                  One of the questions that was asked in  
26 reference to AB 60, in your opinion, do you think employers  
27 will actually leave if in fact the bill is passed?

28                  MR. CENTER: Senator Baca, I couldn't really

1 answer that because I don't represent employers.

2 I think we had some of those same  
3 arguments --

4 SENATOR BACA: Business or manufacturers?

5 MR. CENTER: I think we had the same  
6 argument, I think, from industry, too, when they increased  
7 the minimum wage, and we didn't see a big movement of  
8 industry out of the State of California when they raised  
9 the minimum wage in California.

10 I could not speak for the employers on that.

11 SENATOR KNIGHT: Let me ask a question,  
12 Mr. Chairman, concerning that statement.

13 CHAIRMAN BURTON: If Senator Baca's  
14 finished.

15 SENATOR BACA: Then one follow-up question  
16 in reference to that area.

17 Most of the employees that work right now,  
18 most of them that I've heard, they're pretty much in favor  
19 of AB 60 out there; is that correct?

20 MR. CENTER: It's my understanding, yes,  
21 sir.

22 SENATOR BACA: So, it's positive for the  
23 state of California in improving the quality of life?

24 MR. CENTER: I think that was discussed a  
25 lot during the prior hearings on the eight-hour day. And I  
26 think there was compelling arguments for flexibility.

27 But elimination of the eight-hour day I  
28 don't think was good for the employees in California. And

1 AB 60 brings the eight-hour day back.

2 CHAIRMAN BURTON: Senator Knight.

3 SENATOR KNIGHT: Thank you, Mr. Chairman.

4 You indicated that you didn't see an exodus  
5 of businesses and people leaving the state as a result of  
6 the increase in minimum wage.

7 But I suggest that all of those things added  
8 up to the fact that businesses are leaving California. For  
9 example, in Northrup, just moved a segment of their  
10 operations to North Dakota because it's cheaper to do  
11 business there than it is in California.

12 I've talked to military people who say the  
13 cost of doing business in California is extremely  
14 expensive, and if we could get the bases out of California,  
15 that's what we'd do.

16 You're telling me that it's not a problem in  
17 California?

18 MR. CENTER: On the minimum wage, I don't  
19 think Northrup pays minimum wage to their employees. I  
20 think they're covered by collective bargaining agreements.

21 SENATOR LEWIS: One follow-up question just  
22 in response to Senator Baca's question.

23 You said you didn't think there'd be any  
24 kind of an exodus of business based on Assembly Bill 60  
25 passing.

26 Do you think in the last twenty years there  
27 was ever a period of time in California where the  
28 regulatory climate or the level of taxation was so high



1 that we had any kind of an exodus of business leaving  
2 California to go to other states?

3 MR. CENTER: Well, the last ten years, I  
4 represent construction workers, and that's pretty much  
5 where I concentrated my efforts on. We had a low time in  
6 construction, but it was because of a recession in  
7 construction work. Now we have interest in construction,  
8 so our employers have increased in California instead of  
9 decreased, the construction employers that I work with.

10 SENATOR LEWIS: One more time, over the last  
11 twenty years, was there ever a period of time in the State  
12 of California where you thought that we were losing  
13 manufacturing jobs or other types of jobs to other states  
14 because of the competitive disadvantages that were inherent  
15 in the California economy?

16 MR. CENTER: I couldn't answer that, Senator  
17 Lewis.

18 CHAIRMAN BURTON: Moved by Senator Hughes.  
19 Call the roll.

20 Support? Briefly. We have a full agenda.

21 SENATOR SOLIS: Thank you, Mr. Chairman and  
22 Members.

23 I'm proud to stand here with Chuck Center.  
24 As you know, he was appointed by our last Governor and has  
25 served the IWC very well. He's been on many issues,  
26 working even-handedly. I think he has the qualifications,  
27 know he will do the right thing and follow in pursuit of  
28 economic opportunities for Californians.



1                   Urge your Aye vote.

2                   CHAIRMAN BURTON: Who were you appointed by?  
3 Governor Wilson.

4                   MR. CENTER: Yes.

5                   MR. CAMP: Mr. Chairman, I'm Bill Camp,  
6 representing the California Labor Federation, AFL-CIO.

7                   We wholeheartedly support the appointment of  
8 Chuck Center, and ask that you support his appointment.

9                   MR. PEREZ: Mr. Chairman, Members of the  
10 Rules Committee, I'm Jose Perez. I'm here representing the  
11 California Hispanic Chambers of Commerce.

12                   We urge an Aye vote on Mr. Center's  
13 confirmation, and I'll tell you why.

14                   Some of the questions you raised with  
15 respect to business leaving the State of California, I  
16 don't know that it's the minimum wage that's driving  
17 business out, but maybe some of the other regulatory things  
18 that impact business.

19                   As a small business owner, I can tell you  
20 that there's a whole lot of factors, and it's a lot more  
21 complicated than to just pinpoint and say that labor cost  
22 is what's driving business out of the state.

23                   We need to take a look at our regulatory  
24 system and enhance it so that it's streamlined and it  
25 protects small businesses in a better way.

26                   We think that Mr. Center's confirmation is  
27 important. We've begun dialogue with the labor groups and  
28 business to try to look at some of those tough policy

1 issues with respect to the minimum wage, the eight-hour  
2 overtime issue.

3 And so, we're confident that he would be a  
4 fine appointment. We urge an Aye vote. Thank you.

5 CHAIRMAN BURTON: Name, organization, and  
6 sport, please.

7 MS. BARAJAS: Hi, good morning.

8 My name is Griselda Barajas, and I'm with  
9 the Sacramento Hispanic Chamber of Commerce. I am Vice  
10 President of Business Advocacy, and I'm here in support of  
11 Chuck Center.

12 Thank you.

13 MR. SANCHEZ: My name is Rafael Sanchez,  
14 and I'm the Finance Chairman for the United States Hispanic  
15 Chamber of Commerce.

16 We're here in sport of Chuck Center, who  
17 we've worked well with over the last couple of years.

18 Thank you.

19 MR. CREMINS: Tim Cremins, Operating  
20 Engineers, in full support.

21 MR. WINSTEAD: Joe Winstead, Director of the  
22 California State Pipe Trades Council. We're in support of  
23 Chuck.

24 MR. MONAGAN: Michael Monagan, on behalf of  
25 the Sheet Metal and Air Conditioning Contractors. We're in  
26 support.

27 MR. MCFETRIDGE: Jerry McFetridge, State  
28 Building and Construction Trades Council.

1 MR. BERNACCHI: Eddie Bernacchi on behalf of  
2 National Electrical Contractors Association. We're in  
3 strong support of Mr. Center.

4 MR. CONATY: Pete Conaty, representing the  
5 State Association of Electrical Workers and Sheet Metal  
6 Workers. We're in support.

7 MR. HOUSTON: Bob Houston, Concrete  
8 Contractors, in support.

9 CHAIRMAN BURTON: Opposition?

10 Moved by Senator Baca and Hughes. Call the  
11 roll.

12 SECRETARY WEBB: Senator Baca.

13 SENATOR BACA: Aye.

14 SECRETARY WEBB: Baca Aye. Senator Hughes.

15 SENATOR HUGHES: Aye.

16 SECRETARY WEBB: Hughes Aye. Senator Knight.

17 SENATOR KNIGHT: Aye.

18 SECRETARY WEBB: Knight Aye. Senator Lewis.

19 SENATOR LEWIS: Aye.

20 SECRETARY WEBB: Lewis Aye. Senator Burton.

21 CHAIRMAN BURTON: Aye.

22 SECRETARY WEBB: Burton Aye. Five to zero.

23 CHAIRMAN BURTON: Congratulations, Chuck.

24 MR. CENTER: Thank you.

25 CHAIRMAN BURTON: Rusty Areias, Director of  
26 Parks and Recreation.

27 Senator Costa.

28 SENATOR COSTA: Thank you very much,

1 Mr. Chairman, Members of the Committee.

2 As a former colleague of ours, obviously Mr.  
3 Areias needs no introduction. However, I do want to tell  
4 you that the fact is -- that's any way you want to take it,  
5 Senator Knight. The fact is that this individual I've  
6 known for seems like most of my life.

7 He is dynamic. He is energetic, and he is  
8 creative. I believe that he is going to take what has been  
9 traditionally in the past rather a back water Department  
10 with the state, and really allow it to develop and blossom  
11 in a fashion that I think will be beneficial to all  
12 Californians.

13 The fact of the matter is that with his  
14 creativity, and his tenaciousness, and his talent, I think  
15 that there are going to be park and recreational  
16 opportunities for Californians that we have not seen in  
17 many, many years. And I think he has the ability to be one  
18 of the best Directors of Parks and Recreation that we've  
19 ever had in the State of California.

20 I wholeheartedly recommend him, and I ask  
21 that you confirm him this morning.

22 CHAIRMAN BURTON: Thank you, Senator.

23 Rusty, I think we all know your background,  
24 so why don't you tell us your plans for the State Park  
25 system.

26 MR. AREIAS: That you, Mr. President and  
27 Members.

28 Before I do that, I want to introduce to you



1 my wife, who I think maybe some of you know. My wife,  
2 Julie, who is here, and we're expecting our first child in  
3 October, October 27th. Thank you.

4 Julie, if the questioning gets too tough,  
5 stick your stomach out and start to cry.

6 Anyway, I was asked by the Governor on  
7 March 1st, Mr. President and Members, to take over this  
8 responsibility. And I had served with Senator Costa when  
9 he was an Assemblyman on the Water, Parks, and Wildlife  
10 Committee, and worked for parks in my district, just like  
11 you did in yours in representing the areas that we all come  
12 from.

13 But what I found when I got there was a  
14 Department that had been through 15 very difficult years.  
15 We were all a part of that. We worked during that  
16 difficult time together when revenues were very short, and  
17 parks were not always, in fact, were rarely at the top of  
18 anybody's priority list. Kind of first in their heart and  
19 last on their list when it came to money.

20 In fact, last year was the first time we'd  
21 gotten an augmentation for deferred maintenance -- that's  
22 resource maintenance, cultural maintenance -- since the  
23 Park Department manages and interprets the cultural  
24 resources of this state. And that was for \$30 million.

25 And we have a backlog, depending on who you  
26 want to believe, of somewhere between 70 million and a  
27 billion dollars. And the reason that figure is so  
28 ambiguous is that when you're dealing with historical



1 artifacts, it's sometimes difficult to know exactly what  
2 you're getting into in terms of the expense; whether it's a  
3 Hearst Castle, or Sutter's Fort, or Glen Ellen, Jack  
4 London's home.

5 But what I did find there was the most  
6 committed staff of people that I have ever seen or  
7 experienced in state government. They are committed to  
8 that park system. They are like a family. They work very,  
9 very hard, and I will tell you that we balanced our budget  
10 on the backs of those people in the last 15 years, like a  
11 lot of other state workers.

12 But the reason that Department has held  
13 together, the 265 venues, is because of the extraordinary  
14 commitment that they've made to the people of California  
15 and to this park system. Whether it be the maintenance  
16 supervisors, the superintendents, the part-time employees,  
17 it's an incredible work force that we have there.

18 My plans for the system, first, was to  
19 secure funding, which I was pleased when the Governor put  
20 \$157 million into deferred maintenance priorities. That's  
21 going to go a long way toward resolving some of the short  
22 term problems. Because as all of you know, at some point  
23 deferred maintenance becomes capital outlay. And when  
24 you're dealing with cultural resources, at some point you  
25 lose it entirely. The cultural resources of this state are  
26 lost if you don't invest in them.

27 The other area that I'm focusing in on, and  
28 this is consistent with what the Governor told me when he

1 asked me to take over this responsibility. He said,  
2 "Rusty, dissect this Department from top to bottom, and go  
3 through each division, division by division, department by  
4 department." And we are in the process of doing that.

5 I'm pulling together what I believe is a  
6 world class team of professionals. My three chief  
7 deputies -- Dr. Denzel Duardo, who's here, is Chief Deputy  
8 for Administration; Mary Wright, who was Superintendent of  
9 the Monterey District and used to run the Training Center  
10 at Asilimar, the Mott Center; and Ken Jones -- have a  
11 combination of about 80 years' experience working in state  
12 parks. And the rest of the team that I am putting together  
13 is, I think, going to take this Department to new heights,  
14 combined with the commitment by the Governor and the  
15 Resources Secretary to give us the financial support we  
16 need.

17 I'm concerned about the visibility of state  
18 parks. You know, in California, for all its magnificence,  
19 a park is park is a park. Ask people today at lunch what  
20 their favorite state park is, and they think for a minute,  
21 and they say, "Yosemite." While Yosemite was our first  
22 state park, Yosemite's a national park. Teddy Roosevelt  
23 wrangled it from us shortly after the turn of the century.

24 One of my initiatives is to assemble a group  
25 of people. Gordon Van Souter, formerly President of CBS  
26 and the head of the PBS station here, has agreed to  
27 Co-Chair this committee with me, and we are assembling a  
28 group of people who will talk about how we bring greater

1 visibility and appreciation to our state park system  
2 without crossing that line into the commercial world that I  
3 think our parks are refuges from.

4 CHAIRMAN BURTON: I've got a question.

5 How much money in the budget?

6 MR. AREIAS: 157 million.

7 CHAIRMAN BURTON: That's good.

8 Now there's two or three park bond issues.

9 I think the Speaker's got one, Hayden's got two.

10 Have you had a chance to discuss with the  
11 Governor what he thinks would be an acceptable level of,  
12 shall we say, park bonds for the ballot yet?

13 MR. AREIAS: Mr. President, we talked  
14 briefly about it at the time that he asked me to take over  
15 this job. He said he wasn't sure what that number was. It  
16 would depend on the other competing interests.

17 But I will tell you this. That I know in  
18 the early polling that has been done of 69 percent support  
19 for a park bond issue at one \$1.5 billion. So, it's very  
20 clear to me the \$2 billion bond issue would be supported in  
21 this state, and maybe higher than that. The need is  
22 certainly there. We haven't had a park bond in twelve  
23 years, as you know, in California.

24 CHAIRMAN BURTON: Actually, the Chamber of  
25 Commerce polled a transportation bond that said the people  
26 would go for \$16 billion in one fell swoop.

27 MR. AREIAS: And I think that's terrific  
28 because there was a lot of mitigation money in there.

1           CHAIRMAN BURTON: Then the other issue, I  
2 think you ought to talk, when you talk to the Governor,  
3 he's talked a little bit in terms of almost combining water  
4 and park as a, quote, "resource bond". I think at some  
5 point when the budget's over, it would behoove you, as well  
6 as those of us in the Legislature, to just try to get a fix  
7 from the Governor on just where it's going to be. Because  
8 we've got, for the want of a better word, water, parks,  
9 housing, transportation, and God knows what else.

10           Senator Lewis.

11           MR. AREIAS: Senator, one trend that I've  
12 noticed at least in the Speaker's bond bill, is that more  
13 and more dollars going to city and county parks, and less  
14 to the state parks. In the past, it's been kind of  
15 one-third/one-third formula.

16           You know, a year ago, the past  
17 administration gave up seven parks in Los Angeles County,  
18 including Olivera Street, and seven beach parks. And you  
19 know, Los Angeles County is very important in terms of  
20 passing everything and anything in this state. The state  
21 parks need a presence there.

22           CHAIRMAN BURTON: Senator Lewis.

23           SENATOR LEWIS: Good morning, Rusty.

24           MR. AREIAS: Good morning, Senator.

25           SENATOR LEWIS: I guess the first thing I  
26 have to ask you, to clear the air on this, are you now or  
27 have you ever been a member of any gang.

28                           [Laughter.]



1 MR. AREIAS: Only for a short time in my  
2 youth. I think the statute of limitations has run out on  
3 it.

4 SENATOR LEWIS: I was curious, have you  
5 tendered your resignation yet as a member of the Coastal  
6 Commission?

7 MR. AREIAS: I have.

8 SENATOR LEWIS: Senator Hayden has a piece  
9 of legislation going through the process right now. It's  
10 Senate Bill 1277, that would prohibit the building of  
11 public roads through state parks.

12 Have you looked at that? Do you have any  
13 thoughts on that?

14 MR. AREIAS: I have looked at it, and I'm  
15 familiar with the catalyst of the villains, the San Onofre  
16 Park, as you're aware of, in Orange County.

17 While there are technical problems with the  
18 bill that we're trying to work out with Senator Hayden,  
19 we've taken no official position. I generally support the  
20 bill.

21 I think it's a mistake, typically, when  
22 developers come in, or Caltrans comes in. They want to  
23 take the course of least resistance. Many times, our state  
24 parks, wetlands and others, open space, provide the course  
25 of least resistance.

26 I understand there are problems as it  
27 relates to that particular piece legislation. I think it's  
28 on the Senate Floor at this time. I don't know if



1 Mr. Hayden's got the votes or not.

2 SENATOR LEWIS: My understanding is that  
3 about a little less than 30 percent of the Department's  
4 ongoing operations and maintenance costs are funded through  
5 the fees that are imposed on park users.

6 MR. AREIAS: Correct.

7 SENATOR LEWIS: How does the Department  
8 determine what the appropriate level of fees to charge  
9 people?

10 MR. AREIAS: I think during last 15 years,  
11 the attitude has kind of been whatever the traffic will bear,  
12 Senator. With the fiscal challenges that the past two  
13 administrations faced, there was more and more pressure on  
14 parks to become self supportive, more and more self  
15 supportive.

16 And I think, in my estimation, our fees in  
17 the Department in some cases are too high. As an example,  
18 if someone takes their dog to the park, we charge them a  
19 dollar. That raised a total of \$35,000 last year. Either  
20 a lot of dogs are sneaking into our parks for free, or, you  
21 know, something's wrong.

22 But I can tell you that the people that are  
23 collecting those fees, and I refer to them as nuisance  
24 fees, really get a lot of flack from our park users.

25 If you show up with your family, with a  
26 rubber boat on top of your car and a stationwagon full of  
27 kids, they charge you two bucks for that rubber raft. It  
28 raised a total of \$6,000 last year. I think it's a

1 mistake.

2 I think the fees in our parks presently are  
3 too high. I think there's some things in our society that  
4 ought to be free or nearly free.

5 If you want preferential parking at Huntington  
6 State Beach, or Santa Monica Beach, then you ought to pay for  
7 it. If you want to stay overnight at a campground at state  
8 parks, then you ought to pay for it. But I think we ought to  
9 keep our parks as accessible as possible. Churches, parks, and  
10 libraries in our society should be free or nearly free, in my  
11 estimation.

12 SENATOR LEWIS: There's a number of  
13 restrictions that have been placed on public access on at  
14 least some of the park lands.

15 If somebody is concerned about the denial,  
16 whether they're an off-roader, or a camper, or something  
17 like that, if somebody's concerned about their ability to  
18 access state park lands for their use --

19 MR. AREIAS: Right.

20 SENATOR LEWIS: -- what kind of appeals  
21 process is there for them to go through?

22 MR. AREIAS: Well, you know, typically what  
23 happens, and, I mean, it depends where it is. If you you're  
24 talking about a coastal park, like Oceana Dunes or Blacks Beach,  
25 we were approached on the Coastal Commission by the Bureau of  
26 Land Management, who wanted to prohibit vehicle use on Blacks  
27 Beach. And they made their case, and others made their case.  
28 And the decision was by the Coastal Commission to prohibit the

1 vehicular use.

2                   Oceana Dunes, by contrast, is the one area  
3 where there's very intense use. In fact, I'll be going  
4 there this weekend to see it for the first time in quite a  
5 while.

6                   What they would have to do, if it's on the  
7 coast, they would have to petition the park. They would  
8 have to cite the precious resources that are being  
9 destroyed. You know, we have tremendous natural resources  
10 in the Department.

11                   And the idea behind the Green Sticker  
12 Program and OHV use is to concentrate that particular  
13 activity, which is a very popular one, in areas where  
14 you're -- that are appropriate for it, basically. And  
15 finding those areas is not always easy. And as California  
16 grows, we get into more and more conflicts, conflicting  
17 constituencies. So, they would come to the Parks; they  
18 could petition the Director. If it's on the coast, they  
19 could petition the Coastal Commission.

20                   I will tell you that I have, once I get  
21 appointed, providing that the Governor makes the  
22 appointment, I've brought in a person that I believe will  
23 work very effectively between the environmental groups and  
24 the off-road vehicle users to manage a lot of those  
25 conflicts before they get out of hand. I think that's very  
26 doable.

27                   We're not only Parks, but we're also  
28 Recreation. We've got to sell what people are buying. OHV

1 use is very popular in California.

2 SENATOR LEWIS: Right.

3 Last question. The last time that you were  
4 up for your appointment to the Coastal Commission, some  
5 Members of the minority party had some concerns relative to  
6 the timing as to whether or not it was a legitimate  
7 appointment, or whether it was a potential political  
8 stepping stone.

9 What's your commitment relative to  
10 fulfilling your term in this position?

11 MR. AREIAS: My plan is to stay, stay on as  
12 Parks Director. Eventually, I want to get back into the  
13 private sector.

14 Mr. Lewis, I come from a dairy and farming  
15 background, and I have a love --

16 CHAIRMAN BURTON: Wouldn't that question be  
17 better put to Julie?

18 MR. AREIAS: But the Governor asked me to  
19 stay on through this term, and unless he calls and asks me  
20 to do so something else, that's what I plan to do.

21 SENATOR LEWIS: Thank you.

22 CHAIRMAN BURTON: Senator Hughes.

23 SENATOR HUGHES: I miss your garlic  
24 festival. It's never been the same.

25 I wanted to ask you, Rusty, how do you feel  
26 the Department, and you said that you've visited with the  
27 staff and what-have you, is doing in the area of equal  
28 employment opportunity?



1 MR. AREIAS: Not well. Not well at all.

2 SENATOR HUGHES: What do you plan on doing  
3 to gear them up.

4 MR. AREIAS: What I am planning to do, and  
5 for all their best efforts, and I will tell you that this  
6 Department has really strived to bring greater diversity of  
7 women and minorities to the Department, but they've failed  
8 miserably.

9 I think the reason that they have is that we  
10 have very high educational standards. To come to work for  
11 the Department of Parks and Recreation, you've got to have  
12 a college degree. And what I think has happened in the  
13 past is that minority applicants who might choose a career  
14 in Parks, when they look at their other opportunities have  
15 taken jobs that better compensate them.

16 One of our biggest problems in the  
17 Department is, we have Ranger IIs at the top of their  
18 field, 20 years on the job, making a little over \$3,000 a  
19 month. They're now going to sheriff's departments where  
20 they can make a lot more money, not because they want to  
21 leave, but at some point, you've got a mortgage to pay, and  
22 you've got children to support, and a retirement to plan  
23 for.

24 So, what I plan to do is, one, one of my  
25 chief deputies for -- one of my deputies for external  
26 affairs is a man named Cedric Mitchell. Cedric was Senator  
27 Patrick Johnson's district chief for a good number of  
28 years. That's going to be one of his responsibilities.



1                   We not only need diversity within our ranks,  
2 which we will achieve, but we also need a more diverse  
3 population to utilize our parks.

4                   You know, the Parks Department is an  
5 environmental agency, and we look like the environmental  
6 movement. I think once we get greater participation and  
7 diversity to our parks, it will be easier to recruit people  
8 to a career in Parks. It's one of my highest, if not my  
9 highest, priority.

10                  In order to serve the people of California,  
11 you've got to look like California. You've got to be a  
12 part of California's collective experience.

13                  SENATOR HUGHES: Have you thought of how you  
14 could admit any of those people who have had experience in  
15 the Conservation Corps? They have been really indigenous  
16 people to inner cities. I would think that a lot of those  
17 people who, years ago, worked in that, would be interested  
18 in a career with the Parks Department.

19                  Are you thinking of opening up an  
20 opportunity for those people? I want you to think about  
21 it.

22                  MR. AREIAS: I have thought about that. I have  
23 thought about that.

24                  SENATOR HUGHES: How dedicated are you to  
25 historic and cultural preservation? I know that there are  
26 many historical sites, and as you bring tourists to our  
27 state, I think that there's not enough emphasis in these  
28 wonderful opportunities for people to visit these sites.

1                   How high is this on your radar screen yet,  
2 if at all?

3                   MR. AREIAS: It's very high. The incredible  
4 resources that we have, the coastal resources we have in  
5 the system, I mean, it's a treasure. Within my efforts to  
6 raise the visibility of state parks, I want to make people  
7 more aware of just what's there.

8                   The warehouse we have in West Sacramento,  
9 two huge warehouses full of cultural artifacts. The finest  
10 California Indian basket collection in the world, and the  
11 public doesn't have access to it.

12                   CHAIRMAN BURTON: Thank you.

13                   Senator Baca.

14                   SENATOR BACA: First of all, I appreciate  
15 the fact that you had appeared at a joint meeting the other  
16 day and talked about Parks and Recreation, and need for  
17 outreach. I think it's very important, because as we're  
18 looking in that direction, it seems like there's not a lot of  
19 outreach. So, I do appreciate your taking a stand in  
20 reference to doing that, and coordinating and  
21 communicating.

22                   And I appreciate the fact that you've  
23 indicated that you'd like to lower the fees as well because  
24 it's very difficult for a lot of poor and disadvantaged  
25 individuals to utilize those parks.

26                   My question is, you look at a lot of the  
27 parks, and you look at the appropriation of the dollars,  
28 hopefully, during your administration and during your time,

1 that you or members of your staff will have an opportunity  
2 to look at which ones really need to be upgraded. I'm sure  
3 that there are some in the Inland Empire that need some  
4 assistance or help in that area.

5 Do you plan on visiting the sites to find  
6 out which ones need to be upgraded in terms of the  
7 equipment that they need?

8 MR. AREIAS: I plan on visiting every single  
9 state park during my time as Director.

10 But we have an inventory. We have a system  
11 of 23 districts, 23 superintendents, maintenance chiefs,  
12 chief rangers. So, we're very aware what the needs are out  
13 there.

14 I will tell you, the real saviors in our  
15 park system in the last 15 years has been the maintenance  
16 chiefs that have kept this operation running with bubble  
17 gum and paper clips and nail polish.

18 When I go to a district, I meet with the  
19 superintendents, maintenance chiefs, and the chief ranger,  
20 and I treat them as equals. I have them up here. You  
21 know, the maintenance chiefs, they are the real heroes that  
22 have kept things going.

23 SENATOR BACA: To just show that I have no  
24 personal grudges, I move the nomination.

25 CHAIRMAN BURTON: Senator Knight.

26 SENATOR KNIGHT: I'm aware of a fish  
27 hatchery in the Owens Valley. Mount Whitney Fish Hatchery  
28 is a historical site. I think there's some funding in the

1 budget for that.

2 Are you aware of that facility?

3 MR. AREIAS: A fish hatchery must be  
4 operated by Fish and Game.

5 SENATOR KNIGHT: It's been designated as a  
6 historical building. It certainly doesn't look like a  
7 fish hatchery, I'll tell you.

8 CHAIRMAN BURTON: Are you for it or against  
9 it, Senator?

10 SENATOR KNIGHT: I'm supportive of it. I  
11 want him to support it. And I want to make sure he keeps  
12 the money in the budget.

13 MR. AREIAS: I'll go visit it with you,  
14 Senator Knight.

15 CHAIRMAN BURTON: Let the record reflect.  
16 Could those who support Rusty stand, please.  
17 Thank you.

18 Any opposition?

19 Seeing none call the roll.

20 SECRETARY WEBB: Senator Baca.

21 SENATOR BACA: Aye.

22 SECRETARY WEBB: Baca Aye. Senator Hughes.

23 SENATOR HUGHES: Aye.

24 SECRETARY WEBB: Hughes Aye. Senator Knight.

25 SENATOR KNIGHT: Aye.

26 SECRETARY WEBB: Knight Aye. Senator Lewis.

27 SENATOR LEWIS: Aye.

28 SECRETARY WEBB: Lewis Aye. Senator Burton.



1 CHAIRMAN BURTON: Aye.

2 SECRETARY WEBB: Burton Aye. Five to zero.

3 MR. AREIAS: Thank you, Senators.

4 CHAIRMAN BURTON: Let the record reflect  
5 that Mel Varrelman, Supervisor, District 3 in Napa, doesn't  
6 think too highly of the nomination.

7 Congratulations.

8 MR. AREIAS: Thank you.

9 [Thereupon the Rules Committee  
10 acted on legislative Agenda Items.]

11 CHAIRMAN BURTON: Edwin Lowry, Director of  
12 Toxic Substances Control.

13 Senator Escutia.

14 SENATOR ESCUTIA: Thank you, Mr. Chairman  
15 and Members.

16 I am here this morning to ask your support  
17 of Ed Lowry's confirmation as Director of the Department of  
18 Toxic Substances Control.

19 As the Senate proceeds in the nomination of  
20 new agency and department heads, I guess the obvious  
21 question is, what type of leadership qualities are you  
22 looking for? I think in order to head this Department, you  
23 obviously need someone with intelligence, commitment, and a  
24 great sense of humor in order to navigate what can at times  
25 be a department of treacherous waters.

26 Well, the man that I have the honor of  
27 introducing today is a man of great integrity and  
28 character, and obviously, he possess the gift of navigating



1 through rough waters.

2 I've worked with Ed closely for several  
3 years now on important environmental issues. It was his  
4 uncanny ability to bring parties together and to also  
5 fairly arbitrate two polar opposites that we were able to  
6 come up with Assembly Bill 11, which basically overturned  
7 polluter loopholes, while at the same time, maintain  
8 acceptable business flexibility.

9 Ed played a critical role in the success of  
10 that bill by bringing both the environmental and the  
11 business communities together in a mutual consensus. I was  
12 extremely impressed with Ed's understanding of the issues,  
13 but most importantly, I learned from him that you can bring  
14 people together toward a common solution.

15 It was always a pleasure to work with Ed  
16 because he is a man that possesses both strong legal and  
17 environmental background, with also a dry sense of humor.

18 He is also a graduate of Yale University,  
19 Stanford Law School, and he has worked in various  
20 capacities, including: Public Defender of Contra Costa  
21 County; a deputy city attorney in San Francisco; as well as  
22 a deputy attorney general in environmental issues.

23 Throughout Ed's career, he has held the  
24 belief that a healthy environment is a law enforcement  
25 issue. And it is truly evident from the causes that he has  
26 dedicated his life to that he is a man of vision and  
27 ambition, but also a man who is practical and pragmatic,  
28 and understands the way that, at times, what you need to do

1 in order to bring people together is to compromise, and to  
2 seek that compromise. That in itself is goal to be  
3 treasured.

4 I know that Ed will be an excellent Director  
5 of the Department of Substances Control, not only for his  
6 experience and expertise, but his values and personal  
7 character.

8 Members, it is with great honor that I  
9 introduce to you Mr. Ed Lowry.

10 MR. LOWRY: Thank you, Senator Escutia. I'm  
11 honored by your introduction. I'm honored to be here and  
12 to have been appointed by the Governor to this important  
13 post.

14 With the President's consent, I'd like to  
15 introduce my family that's been here, been able to come  
16 here. Susan Underwood, my wife and able Deputy Attorney  
17 General; and my stepson, Ben Steiner. We also have Sabrina  
18 Steiner, who elected to sleep in this morning, and a  
19 three-year-old daughter Molly, who is at the Rainbow Day  
20 Care Center in the Water Resources Building. I think we're  
21 all glad that she's still there today.

22 I have a few brief remarks. I'm happy to go  
23 to questions at any point that the Committee would like.

24 I followed Mr. Areias in two committee  
25 hearings now; this is the second one. And I always feel a  
26 bit at a disadvantage when he talks about the beauties of  
27 the parks which he oversees, and the wonderful goal of  
28 making parks available to people.

1                   But thinking about that, I think that one of  
2 the things that the Department of Toxics does, and we have  
3 done well in many situations, and we will continue to do  
4 well, is to convert land which is now polluted to better  
5 uses. I think the California Speedway in Senator Baca's  
6 district is probably the best motor race track in the  
7 world. And that rose from the disintegrating remains of  
8 polluted grounds of the Kaiser Steel mill.

9                   We've got -- we're nearly at the end of  
10 almost a decade-long effort in Senator Knight's high desert  
11 region near Mojave, cleaning up about two dozen polluted  
12 sites: metal smelters; metal recovery junkyard sites. I  
13 started that work about a dozen years ago with the Attorney  
14 General's Office, and it's nice to see that we're nearly at  
15 the end of that.

16                   We're working hard with the Marines at Camp  
17 Toro to make sure that the public is protected there. And  
18 we're working to transfer lands to a military facility  
19 that's public use in the President's district.

20                   I hope --

21                   CHAIRMAN BURTON: What are you doing for  
22 her?

23                   [Laughter.]

24                   SENATOR LEWIS: That's why we need  
25 environmental justice.

26                   CHAIRMAN BURTON: He's doing the district  
27 pretty good.

28                   SENATOR HUGHES: If he didn't get to me, I

1 was going to get to him.

2 CHAIRMAN BURTON: I understand that. Give  
3 him a shot before you shoot him.

4 Make it up.

5 [Laughter.]

6 SENATOR HUGHES: He doesn't have to.

7 MR. LOWRY: What we're doing for Senator  
8 Hughes' district is working very hard on number of school  
9 sites, primarily in Los Angeles County, which are a danger  
10 to children as they are now. We're working hard, created  
11 a special Schools Team to analyze and work with various  
12 school districts, and L.A. Unified School District being  
13 the primary one, to make sure that our children who are  
14 going to schools, are going to schools at clean sites.

15 As you on the rostrum know, there are a  
16 number of bills going through the Legislature right now. I  
17 expect it's likely one or more of them will be directing me  
18 and my Department with what to do so with schools, and  
19 we're ready to do that.

20 CHAIRMAN BURTON: Let me stop you and ask  
21 you a question on that.

22 I see that basically you've set up a special  
23 Schools Team to assist in identification assessment and  
24 remediation of the problems at these sites.

25 Then there seems to be three, four, five --  
26 a lot of bills dealing with the problem of toxics more as  
27 they would affect your kids than they would the people  
28 sitting here as adults.



1 MR. LOWRY: Correct.

2 CHAIRMAN BURTON: Are you just going to let  
3 the Legislature work its will, let the Governor work his  
4 will? Or, have you had input on that, because you seem to  
5 be ahead of us anyway.

6 MR. LOWRY: Correct. What we have done to  
7 date is met many times, I personally and more times my  
8 staff, with the various authors of these bills, answering  
9 questions and suggesting changes which would, in our view,  
10 make it possible for us to do what their bill seeks to do  
11 so.

12 We've been, in some sense, equal opportunity  
13 advisors to each of these Members because I think they're  
14 all trying to go to the same direction, which is to make  
15 sure that school sites, school lands, both in the future  
16 and those which are already built, are safe.

17 The final point of your question is, are we  
18 going to see which bill is passed, and yes, we will do  
19 that. We are not advocating one bill over another at this  
20 point.

21 CHAIRMAN BURTON: Senator Lewis.

22 SENATOR LEWIS: How many sites does the  
23 Department currently have on a Superfund list?

24 MR. LOWRY: There is a Cal. Sites List which  
25 I think has 4,000 sites, if I'm not mistaken. We are not  
26 working on all of those sites. One of the things which we  
27 need to do is to identify which of those sites shouldn't be  
28 on the list and which should be on the list.



1                   We have a data base which has been neglected  
2 in the last few years in terms of whether they're actually  
3 accurate or not.

4                   SENATOR LEWIS: If you were to freeze the  
5 list presently, how long would it take, do you think, to  
6 clean up everything, and what would the cost be?

7                   MR. LOWRY: It would take a very long time.  
8 And not to be cute, we have the Casmalian site, for  
9 example. The estimated cost to clean that up is \$400  
10 million.

11                  SENATOR LEWIS: What site?

12                  MR. LOWRY: Casmalia, \$400 million, and I  
13 think a 200-year ultimate clean out. So, it is a long  
14 time.

15                  I have not attempted to figure out what the  
16 cost is. And bear in mind that the state does not pay all  
17 those costs. We recover them elsewhere.

18                  SENATOR LEWIS: Senator Sher's Senate Bill  
19 47, one of the things it did was that it required the  
20 Department to adopt regulations for ranking the various  
21 sites in terms of priorities.

22                  What factors are you using in coming up with  
23 the regulations to determine that ranking?

24                  MR. LOWRY: Well, this bill, of course, was  
25 only enacted a few weeks ago.

26                  We are putting together a team to put those  
27 regulations together. But the factors which we would look  
28 at is: what is the level of pollution; what is the risk to

1 receptors; what's the risk to sensitive receptors.

2 I think we would need to bifurcate those  
3 sites which have responsible parties able to pay and those  
4 which don't. You know, there's subsequent legislation  
5 which we need to fund the Orphan Share Fund of the Sher  
6 bill.

7 SENATOR LEWIS: Have you identified the  
8 source of funding yet for the Orphan Share Fund?

9 MR. LOWRY: There are -- the only  
10 identification which I have heard of is a joint industry  
11 general fund contribution to that fund. And I believe that  
12 the parties are negotiating how much we need to get into  
13 that fund right now.

14 SENATOR LEWIS: Stringfellow was identified  
15 as a federal Superfund site back in '83?

16 MR. LOWRY: Correct.

17 SENATOR LEWIS: They're still cleaning it  
18 up.

19 How much longer is this going to go  
20 on?

21 MR. LOWRY: That's another 200-year project,  
22 Senator.

23 I think actually Stringfellow is a success  
24 story, in that we have now contained the plume from that  
25 site. It is not moving any more. We've got very complex  
26 or extensive wells, dams, and remediation technology, but  
27 it will take a long time.

28 SENATOR LEWIS: In terms of the surrounding

1 water quality, the leaching problem and everything, you've  
2 got that under control now?

3 MR. LOWRY: We believe that is completely  
4 under control at Stringfellow.

5 SENATOR LEWIS: Thank you.

6 CHAIRMAN BURTON: Senator Hughes.

7 SENATOR HUGHES: Thank you very much for  
8 being here today, and thank you for your concern about  
9 school sites.

10 L.A. Unified has a system of asking for soil  
11 samples when they get ready to build on a site.

12 Is a soil sample sufficient enough to  
13 determine that that's a safe site to build on? Or what  
14 else should we do, and will your Department be giving  
15 directions or guidelines to school districts so they do a  
16 more thorough job?

17 MR. LOWRY: Simply sampling soil is not  
18 adequate to do the entire job.

19 We have a process which starts with  
20 something called a preliminary assessment. That's often a  
21 historical look at the school or the school site.

22 From that historical background, interviews,  
23 literature, sometimes just walking the site; you, can get  
24 an idea that there may be a problem there.

25 You follow that up with soil sampling,  
26 sometimes ground water testing, sometimes air monitoring to  
27 determine what is the site and what needs to be done.

28 I anticipate that one way or another, we are

1 going to be brought into the process, and brought in  
2 willingly, to assist in overseeing the preliminary  
3 assessments and the subsequent work at these sites.

4 And the guidelines which we have developed  
5 and regulations which we already have will be used for  
6 that, and we will modify them as we need to.

7 SENATOR HUGHES: I told you in your  
8 interview with me that I was aware of a potential site in  
9 Exposition Park near an armory. And an armory would have  
10 potential dangerous material buried beneath the ground.

11 What would be your agency's roll in  
12 something like that? What would you be looking for, and  
13 how long would it take to do so anything about that?

14 What I'm asking you, as you enter this new  
15 job, if you know that a particular site was a former  
16 armory, would you have a guideline, then, for any site that  
17 you know was a former armory, just like you would have a  
18 guideline for any site that you knew was a former gas  
19 station?

20 MR. LOWRY: We have, I guess, what you'd  
21 call specialists in the Department who -- I don't know if  
22 it's a blessing that we've had military base closings, but  
23 the one good thing out of that is, we do have experience in  
24 looking at what has been at armories or military bases and  
25 so forth. We're working on them.

26 Our experts would look both to what  
27 industrial processes there were at an armory, and what was  
28 stored there. There could be a great number of many



1 solvents, fuels, and you get into munitions, unexploded  
2 ordinance, and those problems. We look at all of those  
3 issues.

4 SENATOR HUGHES: So that school districts  
5 could no longer plead innocence. If they know what the  
6 site was previously, they would have a guideline to know  
7 what they have to look for. So, soil samples would not be  
8 sufficient?

9 MR. LOWRY: I agree with your conclusion;  
10 soil sampling is not sufficient. And I do think that  
11 throughout the state, and especially in your area of the  
12 state, school districts are now on notice, acutely aware,  
13 and actively involved in making sure that their sites  
14 are --

15 SENATOR HUGHES: And I do have a commitment  
16 from you that you will look at this site in Exposition Park  
17 and assist L.A. Unified, because they don't have the right  
18 guidance.

19 MR. LOWRY: Right. I will repeat the  
20 commitment I made to you in the office.

21 SENATOR HUGHES: All right, thank you.

22 CHAIRMAN BURTON: Senator Baca.

23 SENATOR BACA: Thank you, Ed. First of all,  
24 I appreciate the fact that you are working in reference a  
25 lot of the military base closures. We've had a series of  
26 those that have been closed and converting those. And I do  
27 appreciate the fact that you've worked on others in  
28 reference to the California Speedway.



1           My question is in reference to toxics in  
2 fertilizers. You know, that has been a concern right now,  
3 especially when a lot of the farmers and the public are not  
4 informed.

5           What ideas or situations do you have to  
6 remedy the problem?

7           MR. LOWRY: The problem, as I am approaching  
8 it with toxics in fertilizers is that by-products of  
9 certain industrial processes create wastes, some which are  
10 good, and some which are bad. And zinc is one heavy metal  
11 which is a pretty good fertilizer in a lot of situations.

12           So, there's both an opportunity and a  
13 challenge with waste fertilizers. The opportunity is, we  
14 can deal with waste in a beneficial way.

15           The challenge is that not only do you have  
16 good metals, but you've got other bad metals and products  
17 which are along for the ride. And the challenge for us is  
18 to clearly define what -- how much of those other metals on  
19 for the ride should be allowed through; what technologies  
20 are there to get them out of there; and what information  
21 should go to both farmers and consumers when those  
22 fertilizers are sold and put on the land.

23           What I am doing is, I've got a staff in our  
24 Hazardous Waste Management Division briefing me on  
25 precisely what are all the both technical and legal  
26 requirements and aspects of this problem right now.  
27 Working with Secretary Hickox, who is also working with the  
28 Department of Food and Agriculture, which is also equally

1 involved in this issue.

2 We hope to have a coordinated plan for the  
3 Governor to deal with what is an issue which I know affects  
4 you and agriculture and consumers in California.

5 SENATOR BACA: That's one area that has  
6 really impacted, especially where I'm at. We have a lot of  
7 dairies in that immediate area, so a lot of the fertilizer  
8 there, and a lot of the waste in terms of disposing of it  
9 is a high cost to the farmers. And it seems like we've got  
10 to find a remedy to also help in that area and look at what  
11 you possibly have done.

12 Hopefully, you'll look at it.

13 MR. LOWRY: I agree.

14 CHAIRMAN BURTON: Senator Knight.

15 SENATOR KNIGHT: Thank you, Mr. President.

16 Mr. Lowry, we've talked about this before,  
17 but I'd like to have you discuss the certification plan for  
18 the aerosol can recycling equipment, where we stand there,  
19 and why it's taken three years to certify, and maybe more  
20 than that because we haven't certified it yet?

21 MR. LOWRY: What you're referring to is the  
22 Department's Technology Certification Program, and the  
23 spray can technology, which was presented to the  
24 Department.

25 I think that we've had a certification  
26 process three years. I think that's about right. Out of  
27 those 36 months, I've been dealing with the problem for  
28 about three every those months.

1                   SENATOR KNIGHT: But you're stuck with it.

2                   MR. LOWRY: I am stuck with it, I agree,  
3 assuming that you guys approve me.

4                   It took too long for a number of reasons.  
5 One of those reasons is that, for some reason, our staff  
6 and the proponent of the technology were not communicating  
7 well together, for whatever reason. We need to make sure  
8 that we're communicating properly, responsibly, and  
9 courteously with people who bring technology to us.

10                  The mechanism for, and the rules and plan  
11 for certifying technology I don't think, frankly, was well  
12 defined, and it was not even well defined at the end, when  
13 we had to look at the impacts of environmental impacts  
14 through California Environmental Quality Act.

15                  What I am doing with respect to that is  
16 directing my deputies to put together a plan which outlines  
17 in precise order who looks at the technology, what the  
18 deadlines are, and what other parts of our program  
19 integrate with the certification process. I think that  
20 was a major failing in that endeavor.

21                  SENATOR KNIGHT: In looking at the number of  
22 people using that piece of equipment and that technology,  
23 you're ranging from NASA to the Centers for Disease,  
24 universities, Fortune 500 companies. You know, all of  
25 those people seem to be using it.

26                  There are those items available, but we  
27 can't use them in California. And that presents an  
28 additional cost to businesses in terms of trying to dispose

1 of those aerosol cans.

2 MR. LOWRY: I don't disagree.

3 SENATOR KNIGHT: I think it's a significant  
4 issue and one that you indicated in a Wall Street Journal  
5 article that you didn't look at the economic impacts. You  
6 only looked at it from a scientific nature.

7 Let me ask you a question. If you put  
8 together a plan, as you indicate, that you do for  
9 certification, when you put together that plan, and now you  
10 work all the way through that plan, and you know very good  
11 and well that it's not going to be cost effective when you  
12 get through.

13 As an example, if you took this piece of  
14 equipment to dispose of aerosol cans, and you knew that the  
15 equipment would only be good for, say, 50 cans before it had to  
16 be replaced, that's not an economically feasible piece of  
17 equipment.

18 Would you continue to certify it? Would you  
19 go ahead? Would you make that determination as you're in  
20 the certification process?

21 MR. LOWRY: I think what we need to do is to  
22 have a dialogue between the proponent of the certification  
23 and us in terms of, here is what the law requires us to  
24 do. We are required to determine whether the technology  
25 which is proposed does what the proponent says it does, and  
26 what are the environmental impacts on that.

27 We are also required to put conditions on  
28 that to limit the environmental impacts.



1 I think what we need to do is to be very  
2 clear with the proponent that, if there is going to be a  
3 condition, here's what it is, and here's what it's going to  
4 cost.

5 We need to work better with them in terms of  
6 minimizing those costs or getting other solutions.

7 I know with respect to the 200-can limit  
8 here, I was under the impression that there was good  
9 scientific literature which the proponent going to present  
10 to us that stated that there was a good speciation or  
11 affinity for the constituents with concern with this carbon  
12 filter and not propane, which we were not interested in.

13 They're still welcome to present that to us,  
14 but we have not yet seen it.

15 SENATOR KNIGHT: It brings up the point that  
16 it's going to cost \$3 a can for disposal versus 25 cents in  
17 other states utilizing the same piece of equipment. That  
18 makes it economically not feasible within the State of  
19 California.

20 Yet, you're continuing on to try and certify  
21 this thing. Yet, when you say you don't take into  
22 consideration economic impacts, I think that's a fallacy in  
23 your certification plan.

24 MR. LOWRY: Well, the statement in the Wall  
25 Street Journal was actually in answer to a question about  
26 whether this was the least expensive way to do it. And my  
27 response to the reporter, which he put a tag into the article,  
28 was that the major part of what we do is, we look at the



1 at the technology; does it do what the proponent says; and  
2 what conditions should we put on that.

3 And the Legislature has not yet explicitly  
4 directed us to say whether it's a cost effective technology  
5 or not.

6 SENATOR KNIGHT: Is there a law against  
7 evaluating the piece of equipment or any certification  
8 plan? Is there a law against evaluating it from an  
9 economic standpoint as well?

10 MR. LOWRY: Well, I think what the common  
11 sense of the law would say is, we ought to be cognizant of  
12 economic effects. I think we would not be meeting the  
13 letter and perhaps not the spirit of the law if we issued a  
14 certification, and did so on the basis of economic  
15 considerations.

16 SENATOR KNIGHT: I'm not suggesting that.  
17 I'm suggesting that you take that into  
18 consideration, and if you can look at it, and as you  
19 develop your plan, understand that it's not going to be  
20 economically feasible, there's no sense wasting all that  
21 time; is there?

22 MR. LOWRY: I agree with that. What we need  
23 to do is get that information to the proponent early on in  
24 the process, long before the last three months.

25 CHAIRMAN BURTON: Moved by Senator Hughes.

26 Witnesses in support, identify yourself.  
27 Just names and organization quickly.

28 MR. CAMP: Mr. Chairman, Bill Camp,

1 representing the California Labor Federation, AFL-CIO. We  
2 wholeheartedly support this witness.

3 MR. GEOGHEGAN: Mr. Chairman and Members,  
4 John Geoghegan. I'm a lobbyist with Kahl, Pownall  
5 Advocates. We represent a number of public and private  
6 interests.

7 I'm here as a private citizen because I've  
8 fought against Ed, and we worked with Ed on a number of  
9 occasions over the last four or five years. He's a great  
10 guy with a lot of integrity, skill, and capability.

11 I strongly support his confirmation.

12 MR. WEINER: Mr. Chairman and Members,  
13 Peter Weiner, Paul Hastings, lobbyist for Environmental  
14 Technology Council and others.

15 We strongly support his candidacy. We've  
16 worked with him before and since, both for and against.

17 MR. COPELAN: Craig Copelan, President Elect  
18 of Professional Engineers in California Government,  
19 speaking on behalf of our 10,000 members.

20 We are strongly in support of Mr. Lowry's  
21 confirmation. Thank you.

22 MS. SPELLISCY: Sandra Spelliscy with the  
23 Planning and Conservation League in support of the  
24 nomination.

25 MS. SPARKS: Jody Sparks, Sierra Club of  
26 California, in support of Ed Lowry.

27 MR. AGUIRRE: Dan Aguirre, President of the  
28 California Association of Professional Scientists. We are

1 definitely supportive of Mr. Ed Lowry.

2 MS. WILLIAMS: I'm Jane Williams, Executive  
3 Director of California Communities against Toxics, the  
4 Coalition for Environmental Justice.

5 We're supporting Mr. Lowry's confirmation.  
6 Thank you.

7  
8 MR. HART: Gordon Hart, here in my capacity  
9 as a private citizen.

10 I've worked with Ed in a variety of  
11 capacities that -- he and I wearing different hats. And I  
12 find him to be very fair. Support his candidacy.

13 CHAIRMAN BURTON: Any opposition?

14 SENATOR HUGHES: Move the nomination.

15 CHAIRMAN BURTON: Moved by Senator Hughes.  
16 Call the roll.

17 SECRETARY WEBB: Senator Baca.

18 SENATOR BACA: Aye.

19 SECRETARY WEBB: Baca Aye. Senator Hughes.

20 SENATOR HUGHES: Aye.

21 SECRETARY WEBB: Hughes Aye. Senator  
22 Knight. Senator Lewis.

23 SENATOR LEWIS: Aye.

24 SECRETARY WEBB: Lewis Aye. Senator Burton.

25 CHAIRMAN BURTON: Aye.

26 SECRETARY WEBB: Burton Aye. Four to zero.

27 CHAIRMAN BURTON: Leave the roll open.

28 [Thereafter, SENATOR KNIGHT

1                   returned to Committee, the roll  
2                   call was opened, and he abstained,  
3                   thus making the final vote 4-0  
4                   for confirmation.]

5                   CHAIRMAN BURTON: Congratulations.

6                   MR. LOWRY: Thank you very much.

7  
8                   [Thereupon this portion of the  
9                   Senate Rules Committee hearing was  
10                  terminated at approximately 11:51 A.M.]

11                  --ooOoo--  
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CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 25<sup>th</sup> day of June, 1999.

  
EVELYN J. MIZAK  
Shorthand Reporter







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